



U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
[EAC 02 292 51855]

OFFICE: VERMONT SERVICE CENTER

DATE: NOV 21 2005

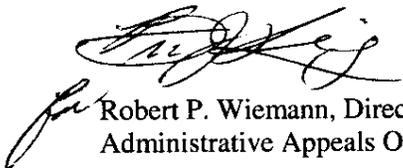
IN RE: Applicant: [REDACTED]

APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration
and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT: Self-represented

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.


Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Vermont Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The applicant claims to be a native and citizen of El Salvador who is seeking Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254.

The director denied the application because the applicant had failed to submit sufficient evidence to establish that he had continuously resided in the United States since February 13, 2001.

On appeal, the applicant submits a statement and additional evidence.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an alien who is a national of a foreign state designated by the Attorney General is eligible for temporary protected status only if such alien establishes that he or she:

- (a) Is a national, as defined in section 101(a)(21) of the Act, of a foreign state designated under section 244(b) of the Act;
- (b) Has been continuously physically present in the United States since the effective date of the most recent designation of that foreign state;
- (c) Has continuously resided in the United States since such date as the Attorney General may designate;
- (d) Is admissible as an immigrant except as provided under § 244.3;
- (e) Is not ineligible under 8 C.F.R. § 244.4; and
- (f)
 - (1) Registers for TPS during the initial registration period announced by public notice in the *Federal Register*, or
 - (2) During any subsequent extension of such designation if at the time of the initial registration period:
 - (i) The applicant is a nonimmigrant or has been granted voluntary departure status or any relief from removal;
 - (ii) The applicant has an application for change of status, adjustment of status, asylum, voluntary departure, or any relief from removal which is pending or subject to further review or appeal;
 - (iii) The applicant is a parolee or has a pending request for reparole; or
 - (iv) The applicant is a spouse or child of an alien currently eligible to be a TPS registrant.

On appeal, the applicant requests that his application not be denied because he has to support his family. He submits the following:

5. Statements from [REDACTED] certifying their knowledge of the applicant and attesting that he is a person of good moral character.
6. A statement dated April 26, 2004, from [REDACTED] stating that he has known the applicant since he (the applicant) started work at Suffolk Downs in February of 2001.
7. Another statement dated April 23, 2004, from [REDACTED] stating that he is a horse trainer at Suffolk Downs Race Track in East Boston, Massachusetts, that he has known the applicant since January 2001, and that the applicant has worked for him for 3 years.
8. Copies of two Stable Employee identification cards issued by [REDACTED] one valid for the period 2002/2003 with expiration of March 31, 2003; and the other valid for the period 2003/2004 with expiration of March 31, 2004.
9. A copy of a money transfer receipt from Western Union dated August 17, 2002.
10. Copies of receipts from Urgente Express dated January 20, 2003, and March 19, 2003.

The statement from [REDACTED] (No. 4 above) has little evidentiary weight or probative value as it does not provide basic information that is expressly required by 8 C.F.R. § 244.9(a)(2)(v). Specifically the pastor does not explain the origin of the information to which he attests, how he knows the applicant, and further, the pastor failed to show inclusive dates of the applicant's membership at the church.

The affidavits detailed in Nos. 2, 3, and 5 above, are based on character references, and while the affiants affirmed their knowledge of the applicant, they failed to provide any specifics regarding the nature, circumstances, or origin of the affiants' acquaintanceship with the applicant, and the address where the applicant resided during the time of their acquaintance.

The undated statement from Mr. [REDACTED] (No. 1 above) indicating that the applicant has been working with him since June (no year provided) is inconsistent with his statement dated April 23, 2004 (No. 7 above), indicating that the applicant has worked for him since January 2001. It is noted that Mr. [REDACTED] (No. 6 above) stated that the applicant started work at Suffolk Downs in February 2001. The inconsistencies of these statements raise questions of credibility. Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth, in fact, lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988).

Regulations at 8 C.F.R. § 244.9(a)(2) do not expressly provide that personal affidavits on an applicant's behalf are sufficient to establish the applicant's qualifying continuous residence or continuous physical presence in the United States. Moreover, the statements provided to establish the applicant's qualifying residence in the United States were not supported by any other corroborative evidence. The applicant claimed to have lived in the United States since April 2000. It is reasonable to expect that the applicant would have some other type of contemporaneous evidence to support his claim; however, no such evidence has been provided.

It is noted that the Stable Employee identification cards (No. 8 above) documents the applicant's employment with Suffolk Downs as early as March 2002. While the identification cards and the receipts (Nos. 9 and 10 above) establish the applicant's continuous residence and continuous physical presence as of March 2002 to the date of filing the TPS application, no documentary evidence was furnished to establish continuous residence and continuous physical presence during the requisite period.

The applicant has failed to establish that he has met the criteria for continuous residence in the United States since February 13, 2001. 8 C.F.R. § 244.2(c). Additionally, although not addressed by the director, the applicant has failed to establish that he has met the criteria for continuous physical presence in the United States from March 9, 2001, to March 2002. 8 C.F.R. § 244.2(b). Consequently, the director's decision to deny the application will be affirmed.

Beyond the decision of the director, it is noted that although the record of proceeding contains an El Salvadoran birth certificate and English translation, the certificate was not accompanied by photo identification to establish the applicant's nationality and identity as required by 8 C.F.R. § 244.9(a)(1). Therefore, the application will also be denied for this reason.

The application will be denied for the above stated reasons, with each considered as an independent and alternative basis for denial. An alien applying for temporary protected status has the burden of proving that he or she meets the requirements enumerated above and is otherwise eligible under the provisions of section 244 of the Act. The applicant has failed to meet this burden.

ORDER: The appeal is dismissed.