



U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
[EAC 01 189 54796]

Office: VERMONT SERVICE CENTER

Date: **NOV 30 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.

for 
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 is 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 determined that the applicant failed to establish he and [REDACTED] are the same person.

On appeal, the applicant asserts that he is the same person as [REDACTED]. The applicant also provides additional evidence in an attempt to establish he and [REDACTED] are one and the same person.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an applicant who is a national of a foreign state as 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 section 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.

The term *continuously physically present*, as used in 8 C.F.R. § 244.1, means actual physical presence in the United States for the entire period specified in the regulations. An alien shall not be considered to have failed to maintain continuous physical presence in the United States by virtue of brief, casual, and innocent absences as defined within this section.

The term *continuously resided*, as used in 8 C.F.R. § 244.1, means residing in the United States for the entire period specified in the regulations. An alien shall not be considered to have failed to maintain continuous residence in the United States by reason of a brief, casual, and innocent absence as defined within this section or due merely to a brief temporary trip abroad required by emergency or extenuating circumstances outside the control of the alien.

Persons applying for TPS offered to El Salvadorans must demonstrate that they have continuously resided in the United States since February 13, 2001, and that they have been continuously physically present in the United States since March 9, 2001. On July 9, 2002, the Attorney General announced an extension of the TPS designation until September 9, 2003. Subsequent extensions of the TPS designation have been granted, with the latest extension granted until September 9, 2006, upon the applicant's re-registration during the requisite period.

The burden of proof is upon the applicant to establish that he or she meets the above requirements. Applicants shall submit all documentation as required in the instructions or requested by Citizenship and Immigration Services (CIS). 8 C.F.R. § 244.9(a). The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. To meet his or her burden of proof, the applicant must provide supporting documentary evidence of eligibility apart from his or her own statements. 8 C.F.R. § 244.9(b).

The record shows that the applicant filed his TPS application on April 25, 2001. On October 9, 2001, the applicant was provided the opportunity to submit evidence establishing he and [REDACTED] are the same person. The applicant, in response, provided copies of a Resident Alien Card and Social Security card in the name of [REDACTED].

The director determined that the applicant failed to submit sufficient evidence to establish he and [REDACTED] are the same person. Therefore, the director denied the application.

On appeal, the applicant states that he and [REDACTED] are the same. According to the applicant, he used the name of [REDACTED] because he did not have a Social Security number. The applicant also provides copies of pay stubs from an unidentified employer, one in the name of [REDACTED] and one in his name. However, the evidence he provided under the name of [REDACTED] is illegitimate and fraudulent. Therefore, this evidence is of no probative value.

The applicant has failed to establish that he qualifies for TPS benefits. Consequently, the director's decision to deny the application for temporary protected status will be affirmed.

Beyond the director's decision, the applicant has provided a copy of a fraudulent Resident Alien Card issued under name of [REDACTED] with a photograph of the applicant. The record reflects that the applicant utilized this fraudulent card to enable his obtaining employment. The fraudulent card is now furnished to CIS in an effort to facilitate the applicant's eligibility for TPS. Pursuant to section 212(a)(6)(C)(i) of the Act, 8 U.S.C. § 1182(a)(6)(C)(i), any alien who, by fraud or willfully misrepresenting a material fact, seeks to procure (or has sought to procure or has procured) a visa, other documentation, or admission into the United

States or other benefit provided under this Act is inadmissible. The applicant, in this case, is seeking to procure TPS benefits under section 244 of the Act. The applicant, therefore, appears inadmissible to the United States pursuant to section 212(a)(6)(C)(i) of the Act.

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.