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**U.S. Citizenship  
and Immigration  
Services**

MI

FILE:

[REDACTED]

Office: VERMONT SERVICE CENTER

Date: OCT 05 2005

[EAC 02 044 50551]

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 on appeal before the Administrative Appeals Office (AAO). 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 denied the application because the applicant failed to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite time periods. The director also denied the application because the applicant failed to establish his identity and nationality.

On appeal, the applicant submits a brief statement and additional documentation.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an applicant is eligible for TPS 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 § 244.4; and
- (f)
  - (1) Registers for Temporary Protected Status 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.
- (g) Has filed an application for late registration with the appropriate Service director, within a 60-day period immediately following the expiration or termination of conditions described in paragraph (f)(2) of this section.

The phrase continuously physically present, as defined 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 phrase continuously resided, as defined 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 continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States since March 9, 2001. The initial registration period for El Salvadorans was from March 9, 2001, through September 9, 2002. 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 valid until September 9, 2006, upon the applicant's re-registration during the requisite time period.

The burden of proof is upon the applicant to establish that he meets the above requirements. Applicants must 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 burden of proof the applicant must provide supporting documentary evidence of eligibility apart from his own statements. 8 C.F.R. § 244.9(b).

The applicant filed his initial Form I-821, Application for Temporary Protected Status, on October 9, 2001. At the time of filing his application, the applicant indicated that he had last entered the United States without inspection in October 1999. In support of the application, the applicant submitted:

1. A photocopy of his El Salvadoran birth certificate, with English translation;
2. An affidavit, dated October 1, 2001, from [REDACTED] pastor of the Asamblea de Dios Galilea Church, [REDACTED], stating that he had known the applicant since his arrival in the United States from El Salvador in December 1999; and,

3. Photocopies of earnings statements from the Burlington Coat Factory, for the pay periods ending November 5, 1999; August 26, 2001; September 2, 2001; September 16, 2001; and, September 23, 2001, on which the applicant's Social Security number is listed as [REDACTED]

On October 9, 2002, and again on May 22, 2003, the applicant was requested to submit evidence establishing his qualifying continuous residence and continuous physical presence in the United States during the requisite time periods. In response, the applicant submitted:

4. An affidavit, dated June 17, 2003, from [REDACTED] pastor of the Assembly of God [REDACTED] Virginia, stating that the applicant had been a member of the church since March 2000.
5. A photocopy of an earnings statement for the pay period ending December 3, 1999, on which the applicant's Social Security number is listed as [REDACTED]; and,
6. Photocopies of earnings statements from Professional Environmental Management Enterprises, Inc., for the pay periods ending September 2, 2001; September 23, 2001; May 31, 2002; and, July 31, 2002, on which the applicant's Social Security number is listed as [REDACTED]

The director determined that the applicant had not submitted sufficient evidence to establish his eligibility for TPS and denied the application on March 17, 2004.

On appeal, the applicant requests that his case be reviewed. In support of his appeal, the applicant submits the following additional document:

7. A photocopy of his El Salvadoran personal identification card (*cédula*);
8. A photocopy of the identification page from his El Salvadoran passport;
9. An affidavit, dated March 30, 2004, from [REDACTED] pastor of the Asamblea de Dios/Assembly of God, [REDACTED] stating that the applicant had been a member of the church since December 1999;
10. A photocopy of a membership card from Church Galilea of Assemblies of God, 800 E. Staunton, Sterling, Virginia, issued on March 1, 2004;
11. A letter, dated April 1, 2004, from [REDACTED] stating that he had known the applicant for several years and had supported the applicant "since January thru [sic] August 2002 until the present;"
12. Photocopies of earnings statements from the Burlington Coat Factory, for the pay periods ending November 19, 1999; November 26, 1999; and, December 10, 1999, on which the applicant's Social Security number is listed as [REDACTED]
13. Photocopies of earnings statements for the pay periods ending August 26, 2001; September 2, 2001; September 16, 2001, on which the applicant's social security number is listed as [REDACTED]
14. Photocopies of earnings statements from Professional Environmental Management Enterprises, Inc., for the pay periods ending May 31, 2002; June 30, 2002; July 15, 2002, and, July 31, 2002. The applicant's Social Security number on the statements is listed as [REDACTED] and,
15. A photocopy of the applicant's Social Security card, number [REDACTED] and,
16. Documentation dating from October through December 2003.

Based on a review of the record, the applicant has sufficiently established his nationality and identity (see Nos. 1, 7, and 8, above). Therefore, the director's decision to deny the application on these grounds will be withdrawn.

The applicant claims to have continuously lived in the United States from October 1999, to the date of filing his TPS application in October 2001. It is reasonable to expect that he would have a variety of credible, contemporaneous evidence to support this claim. A letter from an acquaintance (No. 11, above) is not, by itself, persuasive evidence of qualifying continuous residence and continuous physical presence. Nos. 10 and 16 are dated well beyond the required dates.

There are discrepancies encountered in the evidence presented pertaining to the applicant's use of a Social Security number (see Nos. 3, 5, 6, 12, 13, 14, and 15, above). On his initial Form I-821, the applicant indicated that he had never used a Social Security number. However, Nos. 3, 5, 12, and 13, indicate that he used Social Security number [REDACTED] prior to the filing date of his application, from November 1999 to September 16, 2001; while Nos. 6 and 7 indicate that he used Social Security number [REDACTED] from September 2, 2001 to August 2002. There are also discrepancies in the evidence presented pertaining to the applicant's church membership (Nos. 2, 4, 9, and 10). The name and the address of the church, and the alleged date of the applicant's membership are not consistent. These discrepancies have not been explained and call into question the applicant's ability to document the requirements under the statute and regulations. Doubt cast on any aspect of the evidence as submitted may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. Further, it is incumbent on the applicant to resolve any inconsistencies in the record by independent objective evidence; any attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582. (Comm. 1988).

Based on a review of the record, it is concluded that the applicant has not submitted sufficient credible evidence to establish that he satisfies the continuous residence and continuous physical presence requirements described in 8 C.F.R. §§ 244.2(b) and (c). Consequently, the director's decision to deny the application for these reasons will be affirmed.

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.