



U.S. Citizenship
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FILE: [REDACTED] OFFICE: VERMONT SERVICE CENTER DATE: OCT 31 2005
[EAC 03 225 51297]

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 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 had failed to establish that he: (1) was eligible for late registration; (2) had continuously resided in the United States since February 13, 2001; and (3) had been continuously physically present from March 9, 2001, to the date of filing the application.

On appeal, the applicant submits a statement and documents previously furnished and contained in the record.

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.

- (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 condition described in paragraph (f)(2) of this section.

The term *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.

The term *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.

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. A subsequent extension of the TPS designation has been granted by the Department of Homeland Security, with validity until September 9, 2006, upon the applicant's re-registration during the requisite time period.

The initial registration period for El Salvadorans was from March 9, 2001, through September 9, 2002. The record shows that the applicant filed his initial application on June 18, 2003.

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 first issue in this proceeding is whether the applicant is eligible for late registration.

The record of proceeding confirms that the applicant filed his application after the initial registration period had closed. To qualify for late registration, the applicant must provide evidence that during the initial registration period from March 9, 2001 through September 9, 2002, he fell within the provisions described in 8 C.F.R. § 244.2(f)(2) (listed above).

On August 28, 2003, the applicant was requested to submit evidence establishing his eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2). In response, the applicant submitted evidence in an attempt to establish continuous residence and continuous physical presence; however, the applicant failed to submit any evidence to establish eligibility for late registration. Therefore, the director denied the application on March 24, 2004.

On appeal, the applicant neither addressed nor submitted any evidence to establish that he has met any of the criteria for late registration described in 8 C.F.R. § 244.2(f)(2). Consequently, the director's decision to deny the application on this ground will be affirmed.

The second issue in this proceeding is whether the applicant has established his continuous residence in the United States since February 13, 2001, and continuous physical presence from March 9, 2001, to the date of filing the application.

As stated above, the applicant was requested on August 28, 2003, to submit evidence establishing his qualifying continuous residence and continuous physical presence in the United States. In response, the applicant submitted:

1. A statement dated December 11, 2003, from [REDACTED], Pastor of Asamblea Apostolica in Rockville, Maryland, indicating that he personally knows the applicant since February 2001 when he began attending church services and became part of the congregation.
2. A statement dated December 11, 2003, from [REDACTED] indicating that the applicant is his brother, he has been living in the United States since February 6, 2001, and that since the applicant's arrival, he has been living with him at his house [REDACTED], Baltimore, Maryland).
3. A statement dated December 11, 2003, from [REDACTED] indicating that he personally knows the applicant because he is his friend, that the applicant has been living in the United States since February 6, 2003, since the applicant's arrival he has been living with his brother, that he met the applicant the day he arrived in the United States because he accompanied his brother to pick him up at the bus station, and that he sees the applicant frequently because they live in the same area of town.

The director determined that the evidence furnished was insufficient to establish the applicant's continuous residence and continuous physical presence during the requisite period and denied the application on March 24, 2004.

On appeal, the applicant asserts that he entered the United States prior to February 13, 2001, and since his arrival he has had no problem with local, State or Federal police, nor has he committed any crime. He resubmits documents previously furnished, listed as Nos. 1, 2, and 3 above.

The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. 8 C.F.R. § 244.9(b). The statement from the pastor (No. 1 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, provide any details or specifics regarding the basis of his acquaintanceship with the applicant, or how he obtained the information that the applicant arrived in the United States "before or by February 13, 2001." Additionally, the pastor failed to show inclusive dates of the applicant's membership with the church, and the address where the applicant resided during the membership period.

[REDACTED] (Nos. 2 and 3 above) both indicated that the applicant resided with [REDACTED] at his home at [REDACTED] in Baltimore, Maryland, since arriving in the United States on February 6, 2001. However, the record of proceeding is devoid of evidence that the applicant had ever resided at [REDACTED] address. The applicant listed his address on his initial TPS application as [REDACTED] Street in Baltimore, and on November 13, 2003, he reported a change of address to [REDACTED] in Baltimore. Furthermore, it is noted that although the statements were signed by a Notary Public, the notary seal was not affixed to the statements.

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 were not supported by any other corroborative evidence.

The applicant has failed to establish that he has met the criteria for continuous residence since February 13, 2001, and continuous physical presence since March 9, 2001, as described in 8 C.F.R. § 244.2(b) and (c). Consequently, the director's decision to deny the application on this ground will also 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.