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U.S. Citizenship
and Immigration
Services

MM

FILE:

[REDACTED]

[EAC 02 261 52344]

Office: VERMONT SERVICE CENTER

Date: SEP 06 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 (AAO) 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 failed to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite time periods.

On appeal, the applicant submits a brief statement.

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.

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 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 granted until September 9, 2006, upon the applicant's re-registration during the requisite time period.

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.

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 record reflects that the applicant filed his initial Form I-821, Application for Temporary Protected Status, on August 10, 2002. At the time of filing his Form I-821, the applicant indicated that he had last entered the United States without inspection at Finex, Arizona, on May 15, 2002. In support of the application, the applicant submitted:

1. A photocopy of the identification page from his El Salvadoran passport, issued in El Salvador on June 18, 2001;
2. A photocopy of an abstract of his El Salvadoran birth certificate, with English translation; and,

3. A letter, dated July 16, 2002, from [REDACTED] pastor of Igelsia Pentecostal Bethel De Maryland in Beltsville, Maryland, stating that he had known the applicant since May 2000.

On January 7, 2004, the director requested the applicant to submit evidence establishing his qualifying continuous residence and continuous physical presence in the United States during the requisite time periods. The director also requested the applicant to sign a photocopy of his Form I-821. In response, the applicant submitted a letter, with an original signature, stating that he does not have much documentation to prove that he had established a residence in the United States as of February 13, 2001, because he was paid in cash and didn't have any bills. He also submitted:

4. Photocopies of three money transfer receipts, dated February 17, 2001; March 8, 2001; and, April 12, 2001.

The director determined that the applicant had failed to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite time periods. The director denied the application on March 24, 2004. In his denial, the director noted that the applicant had failed to submit a signed photocopy of his application. The director also noted that the applicant had stated on his application that he had last entered the United States on May 15, 2002.

On appeal, the applicant asserts that he last entered the United States on May 5, 2000, and that the person who filled out his Form I-821 for him had made mistakes. In support of the appeal, the applicant resubmits photocopies of No. 4, above. He also submits a photocopy of his initial TPS application, with an original signature, on which he amended his claimed date of entry into the United States from May 15, 2002, to May 2000.

There are numerous discrepancies in the record pertaining to the applicant's claimed date and place of entry into the United States. On his initial Form I-821, and on a Form I-765, Application for Employment Authorization, the applicant's date of entry was noted as May 15, 2002, at Finex, Arizona. On a Form I-821 application for annual re-registration and Form I-765 submitted on September 8, 2003, and on a Form I-765 submitted on November 12, 2003, the applicant noted his date of entry as September 2000, at Houston, Texas. At the time of filing his appeal, however, the applicant asserts that he last entered the United States in May 2000. The applicant's passport (No.1, above), however, was issued in El Salvador in June 2001, more than a year after his most-recently claimed date of entry.

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 lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988). The applicant has not submitted any objective evidence to explain or justify the above-noted discrepancies.

Based on a review of the record, it is concluded that the documentation submitted by the applicant is not sufficient 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 temporary protected status will be affirmed.

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.