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U.S. Citizenship  
and Immigration  
Services

MI

[REDACTED]

FILE:

[REDACTED]

[EAC 01 227 57250]

Office: VERMONT SERVICE CENTER

Date: **SEP 23 2005**

IN RE:

Applicant:

[REDACTED]

APPLICATION:

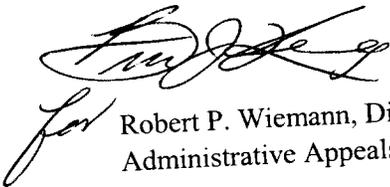
Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT:

[REDACTED]

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. A subsequent appeal was dismissed by the Director, Administrative Appeals Office (AAO). The matter is now before the AAO on a motion to reopen. The motion to reopen will be dismissed and the previous decision of the AAO, dismissing the appeal, will be affirmed.

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 after determining that the applicant failed to establish he had continuously resided in the United States since February 13, 2001.

Upon review of the record of proceeding, the AAO concurred with the director's conclusion and dismissed the appeal on December 18, 2003.

On motion to reopen, counsel for the applicant reasserts the applicant's claim of eligibility for TPS. The applicant submits additional evidence in an attempt to establish his qualifying continuous residence in the United States.

A motion to reopen must state the new facts to be proved at the reopened proceeding, and be supported by affidavits or other documentary evidence. 8 C.F.R. § 103.5(a)(2). A motion that does not meet applicable requirements shall be dismissed. 8 C.F.R. § 103.5(a)(4).

The applicant's motion to reopen includes a pay stub from [REDACTED] Baltimore, Maryland dated November 10, 1999, and is the earliest date presented as evidence of the applicant's continuous residence in the United States. As such, the issue on which the underlying decisions were based has not been overcome on motion.

It is noted that the applicant presents evidence in the name of [REDACTED] and presents two affidavits from himself and his brother-in-law. In his statement, the applicant states that [REDACTED] was his nickname and that his father's last name was [REDACTED] and that he used [REDACTED] because it was his father's last name. However, the statements have little evidentiary weight or probative value as no evidence has been submitted to establish that the applicant and [REDACTED] are one and the same person. Pay receipts from V.P.I. dated July 7, 2001 and July 14, 2001, are in the applicant's name; while pay receipts dated November 10, 1999 to September 25, 2002, are in the name of [REDACTED] and bear a different social security number. 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). Moreover, the applicant fails to submit evidence that the employer recognized him and [REDACTED] as one and the same person. Furthermore, on his Form I-765, Application for Employment Authorization, the applicant indicated that he had not used any other names.

The burden of proof in these proceedings rests solely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361. That burden has not been met since the applicant has not provided any new facts or additional

evidence to overcome the previous decision of the AAO. Accordingly, the motion to reopen will be dismissed and the previous decision of the AAO will not be disturbed.

**ORDER:** The motion to reopen is dismissed. The previous decision of the AAO dated December 18, 2003, dismissing the appeal, is affirmed.