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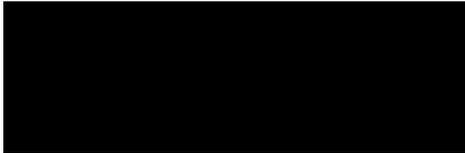
U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. A3042
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
[LIN 02 206 51348]

Office: NEBRASKA 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: 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, Nebraska 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 will be granted, and the previous decision of the AAO to dismiss 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 determined that the applicant failed to establish he had: 1) continuously resided in the United States since February 13, 2001; and 2) been continuously physically present in the United States since March 9, 2001. The director, therefore, denied the application.

Upon review of the record of proceeding, the AAO concurred with the director's conclusion and dismissed the appeal on January 2, 2004.

On motion to reopen, the applicant reasserts his claim of eligibility for TPS and submits additional evidence in an attempt to establish his qualifying continuous residence and continuous physical presence 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).

On motion, the applicant submits a statement from [REDACTED] copies of hand-written generic rent receipts; three photos; and, a receipt from Avon. Ms. [REDACTED] states that she became the applicant's landlord when he moved in with his mother in November 2000 when he arrived in the United States. The hand-written receipts are dated from November 2000 to December 2000 and are not in the applicant's name. They are, therefore, of no probative value. Consequently, Ms. [REDACTED] statement is not supported by any corroborative evidence. It is reasonable to expect that the applicant would have some type of contemporaneous evidence to support these assertions; however, no such evidence has been provided. Affidavits are not, by themselves, persuasive evidence of residence or physical presence. Two of the photos are dated June 2001. Therefore, even if it could be established that they were taken in the United States, they are dated subsequent to the requisite dates to establish continuous residence and continuous physical presence during the qualifying period. The third photo appears to be dated January 9, 2001. This photo, however, is dated prior to the qualifying dates to establish continuous residence since February 13, 2001 and continuous physical presence from March 29, 2001 to the filing date of the TPS application. The Avon receipt is dated October 28, 2000. However, on his TPS application, the applicant lists his date of entry into the United States as October 29, 2000. 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).

The application will be denied for the above reasons, with each considered as an independent and alternative basis for denial. 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 sufficient 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 decision of the AAO dated January 2, 2004, dismissing the appeal, is affirmed.