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

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FILE:



Office: VERMONT SERVICE CENTER

Date: **JAN 09 2006**

[EAC 03 259 50983]

IN RE:

Applicant:



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 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 that he was eligible for late registration. The director also found that the applicant had 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 letter 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 since March 9, 2001. The initial registration period for Salvadorans was from March 9, 2001, through September 9, 2002. The record reveals that the applicant filed his initial Form I-821, Application for Temporary Protected Status, with Citizenship and Immigration Services (CIS) on September 15, 2003, more than one year after the initial registration period had ended.

To qualify for late registration, the applicant must provide evidence that during the initial registration period he fell within at least one of the provisions described in 8 C.F.R. § 244.2(f)(2) above.

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 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).

In support of his initial application, the applicant submitted:

1. A photocopy of the identification page from his El Salvadoran passport, issued in Washington, D.C., on October 18, 1999;
2. A photocopy of an abstract of his El Salvadoran birth certificate, with English translation;

3. Photocopies of earnings statements from [REDACTED], for the pay periods ending November 12, 1998; December 27, 1999; January 31, 2000; and, May 12, 2000;
4. A photocopy of an earnings statement from Derwood Seafood House, Inc., Germantown, Maryland, for the pay period ending July 2, 2000;
5. A photocopy of an earnings statement from Ann's House of Nuts, Inc., Jessup, Maryland, for the pay period ending July 2, 2000;
6. A photocopy of an earnings statement from Lawn Systems, Inc., Rockville, Maryland, for the pay period ending May 22, 2003;
7. A letter, dated April 15, 2003, from Giant Express, Inc., Gaithersburg, Maryland, stating that the applicant used its services on various dates from December 7, 1998, to October 2, 2000; and,
8. A receipt, dated September 12, 2003.

On October 8, 2003, the director requested the applicant to submit evidence to establish his eligibility for late registration. The applicant was also requested to submit evidence to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite time periods. The record reflects that the applicant failed to respond to the director's request.

The director determined that the applicant had failed to submit sufficient evidence to establish his eligibility for TPS and denied the application on February 25, 2004.

On appeal, the applicant submits the following additional documentation:

9. Four receipts from Western Union, dated February 25, 2001, to April 15, 2001.

The record confirms that the applicant filed his TPS application after the initial registration period had expired. The applicant has submitted documentation in an attempt to establish his continuous residence and continuous physical presence in the United States. However, this documentation does not mitigate the applicant's failure to file his Form I-821 within the initial registration period. The applicant has not 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 for failure to establish eligibility for late registration will be affirmed.

The applicant claims to have lived in the United States since November 1998 to the date of filing his TPS application in September 2003. It is reasonable to expect that he would have a variety of contemporaneous evidence to support this claim.

There are discrepancies and alterations noted in the documentation submitted (Nos. 3, 4, 5, and 6, above). At the time of filing his TPS application, the applicant indicated that he had never used a Social Security number; however, No. 3 indicates that he used Social Security number [REDACTED] on or about November 1998 to May 2000, and Nos. 4, 5, and 6 indicate that he used Social Security number [REDACTED] July 2000 and May 2003. Furthermore, at the time of filing his TPS application, the applicant indicated that he was single; however, No. 5 lists his marital status as "married." No. 5 also appears to have been altered with regard to the issuee's name and address. These discrepancies in the applicant's submissions 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. Furthermore, 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 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 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.