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U.S. Citizenship
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Services

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[REDACTED]

FILE:

[REDACTED]

Office: VERMONT SERVICE CENTER

Date: OCT 03 2006

[EAC 01 192 54635]

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.

Cindy M. Gomez for

Robert P. Wiemann, Chief
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 sustained.

The director denied the application because the applicant failed to establish his identity and nationality.

On appeal, counsel for the applicant submits additional evidence.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2(a), provide that an applicant is eligible for temporary protected status only if such alien establishes that he or she:

Is a national of a foreign state designated under section 244(b) of the Act;....

The applicant indicated on his Form I-821, Application for Temporary Protected Status, that he is a citizen of El Salvador.

On May 1, 2003, the applicant was requested to submit evidence to establish his identity and nationality. He was also requested to submit evidence to establish continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States since March 9, 2001. In response, the applicant submitted documentation relating to his residence and physical presence in the United States and photocopies of Employment Authorization Cards issued from January 11, 1994 through September 9, 2002, based on the applicant's pending asylum application¹ and, beginning on June 15, 2001, his pending TPS application.

The director denied the application on October 1, 2003, because the applicant had failed to submit evidence to establish his identity and nationality.

On appeal, counsel for the applicant submits the following:

1. a photocopy of the applicant's El Salvadoran birth certificate with English translation;
2. a photocopy of the applicant's El Salvadoran national identity card (cedula) with English translation;
3. a photocopy of the applicant's El Salvadoran National Guard identification card with English translation; and,

¹ The applicant's relating record, [REDACTED], reveals that the applicant filed a Form I-589, Request for Asylum in the United States, on September 3, 1991. On July 3, 2000, the Director of the Asylum Office in Arlington, Virginia, found that the applicant had not established a well-founded fear of future persecution and referred the applicant for a removal hearing before an Immigration Judge. The applicant subsequently filed his initial TPS application on May 3, 2001. On January 7, 2002, an Immigration Judge in Arlington, Virginia, administratively closed the removal proceeding for consideration of the applicant's eligibility for TPS. It is noted that the Immigration Judge stated in his order that the removal hearing could be re-opened at any time in the future.

4. a photocopy of the biographic page of the applicant's El Salvadoran passport issued by the El Salvadoran Embassy in Washington, D.C., on October 28, 2003.

In view of the foregoing, it is concluded that the applicant has submitted sufficient evidence to establish his identity and nationality, and the sole ground for denial of the application has been overcome. The applicant has satisfied all other criteria for eligibility for TPS.

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 met this burden.

ORDER: The appeal is sustained.