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FILE:

[EAC 01 257 56087]

Office: Vermont Service Center

Date: **OCT 20 2006**

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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

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 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 periods.

On appeal, the applicant asserts his eligibility for TPS and submits evidence in support of his claim.

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.

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 entry on or prior to February 13, 2001, continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States since March 9, 2001. On July 9, 2002, the Attorney General announced an extension of the TPS designation until September 9, 2003. A subsequent extension of the TPS designation has been granted by the Secretary of the Department of Homeland Security, with validity until September 9, 2007, upon the applicant's re-registration during the requisite time period.

The burden of proof is upon the applicant to establish that he or she meets the above requirements. Applicants shall 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 or her burden of proof the applicant must provide supporting documentary evidence of eligibility apart from his or her own statements. 8 C.F.R. § 244.9(b).

Along with his TPS application, the applicant submitted the following documentation:

1. Copies of the applicant's El Salvadoran passport;
2. An employment letter dated July 19, 2001, from ██████████ General Manager of Carpet Service Inc., who stated that the applicant had worked for him since September 1998;
3. A copy of an envelope addressed to the applicant bearing postmarked date of October 13, 1995, from Gigante Express;
4. A copy of a receipt dated October 11, 1995, from Gigante Express;
5. A copy of a money transfer receipt dated September 9, 1995, from Gigante Express; and,
6. Copies of Western Union money transfer receipts bearing dates of December 27, 2000 and January 16, 2001.

On January 20, 2005, the director denied the application because the applicant failed to establish his continuous residence in the United States since February 13, 2001, and his continuous physical presence in the United States since March 9, 2001, to the date of filing his application.

On appeal, the applicant submits the following in support of his eligibility for TPS:

7. A copy of a receipt dated September 20, 2001, from the Superior Court of the District of Columbia;
8. A copy of a notice dated September 3, 2001, from the Superior Court of the District of Columbia;
9. A ineligible copy of a notice dated November 5, 1998, from the Superior Court of the District of Columbia;
10. A copy of his driver's record from the District of Columbia Bureau of Motor Vehicles dated November 19, 1997;
11. A copy of an education certificate dated March 25, 1997, regarding the applicant's completion of a three hour alcohol and drug course;
12. A copy of a Western Union money transfer receipt dated February 14, 2000;
13. A copy of a receipt dated October 21, 1997, from the Maryland Department of Transportation; and,
14. A copy of discharge instructions dated June 3, 2000, from the Washington Hospital Center.

The employment letter as detailed in No. 2 above, from [REDACTED] has little evidentiary weight or probative value as it does not provide basic information that is expressly required by 8 C.F.R. § 244.9(a)(2)(i). Specifically, [REDACTED] does not provide the address where the applicant resided during the period of his employment. In addition, the statement from [REDACTED] is not supported by corroborative evidence, such as earnings statements or forms of payment for the applicant's services. The documentation as detailed in Nos. 7 and 8 above, post-date the beginning of the qualifying period for El Salvadoran TPS. Further, the remaining documentation submitted by the applicant pre-dates the beginning of the requisite time periods.

It is also noted that the photocopied Western Union money transfer receipt dated December 27, 2001 detailed in No. 6 above, appears to have been altered as the original date seems to have been changed to an earlier year. Additionally, the Western Union money transfer receipts do not bear a name or signature of an authorized agent. 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 sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. 8 C.F.R. § 244.9(b). It is determined 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.

Beyond the applicant, on appeal, provides copies of notices from the Superior Court of the District of Columbia revealing past involvement with the court. However, the applicant did not provide the final court dispositions. CIS must address these court proceeding in any future decisions regarding the applicant's eligibility for TPS.

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 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 dismissed.