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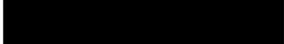
U.S. Citizenship
and Immigration
Services

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FILE:



Office: VERMONT SERVICE CENTER

Date: FEB 01 2007

[SRC 02 23 454411]

IN RE:



APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act (the 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, Chief
Administrative Appeals Office

DISCUSSION: The Director, Vermont Service Center denied the application. The application is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a citizen of El Salvador who seeks 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 submitted inconsistent evidence regarding his physical presence in the United States and found that the applicant had failed to establish that he had continuously resided in the United States since February 13, 2001.

On appeal, the applicant asserts that he made a mistake in his original application and submits an amended affidavit from the individual who originally attested as to his physical presence in the United States.

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

- (a) Is a national of a 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 section 244.3;
- (e) Is not ineligible under 8 C.F.R. § 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 continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States since March 9, 2001. Subsequent extensions of the TPS designation have been granted, with the latest extension valid 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).

On May 24, 2004, the applicant was asked to submit a government-issued photo identity document. In response, the applicant provided the following documentation:

1. a copy of the first page of his Salvadoran passport issued in Manhattan, New York, on June 7, 2004; and
2. a copy of his Salvadoran voter registration card issued in El Salvador on January 25, 1997.

On February 9, 2005, the applicant was asked to submit evidence to establish continuous residence in the United States since February 13, 2001 and continuous physical presence since March 9, 2001. In response, the applicant provided the following documentation:

3. copies of three rent receipts, dated November 1, 1999, January 3, 2000, and April 1, 2000;
4. a letter from [REDACTED] of Our Lady of the Most Holy Rosary/Saint [REDACTED]'s Roman Catholic Church, dated February 19, 2005, stating that the applicant had attended mass at his parish for the past 3 years; and,
5. an affidavit from [REDACTED], dated February 22, 2005, stating that the applicant lived in the same house as her form October 2, 1999, to September 1, 2000.

On September 12, 2005, the director determined that the affidavit from [REDACTED] and rent receipts were not credible because they were inconsistent with a letter submitted with the applicant's original TPS application from [REDACTED] who stated that the applicant shared an apartment with her at a different address from September 1999 to February 20, 2002. The director concluded that the applicant had failed to submit sufficient evidence to establish his qualifying continuous residence and continuous physical presence and denied the application.

On appeal, the applicant reasserts his claim and asserts that he made a mistake in his original application and submits an amended affidavit from [REDACTED] who originally attested to his physical presence in the United States. [REDACTED] states that she does not speak English well and that the letter she submitted with the applicant's original application was mistaken. She asserts that she never shared a residence with the applicant and that he only used her address to receive mail.

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).

[REDACTED] amended affidavit does explain the inconsistency between the documents submitted by the applicant. However, this affidavit, along with the other documents submitted, is insufficient to establish residence and continuous physical presence. The letter from the applicant's pastor 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)(v). Specifically, the pastor does not explain the origin of the information to which he attests, nor does he provide the address where the applicant resided during the period of his involvement with the church. Similarly, little weight can be given to the affidavit from [REDACTED]. As such, the copies of rent receipts provided by the applicant are not supported by reliable corroborative evidence and are of little probative value. While 8 C.F.R. § 244.9(a)(2)(ii) specifically states that additional documents such as rent receipts "may" be accepted in support of the applicant's claim, the regulations do not suggest that such evidence alone is necessarily sufficient to establish the applicant's qualifying residence or physical presence in the United States. The applicant claims to have lived in the United States since September 22, 1999. It is reasonable to expect that the applicant would have some other type of contemporaneous evidence to support these receipts; however, no such reliable evidence has been provided. The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. 8 C.F.R. § 244.9(b). The documentation submitted by the applicant is not sufficient to establish that he satisfies the residence and physical presence requirements described in 8 C.F.R. §§ 244.2(b) and (c). Consequently, the director's decision to deny the application for TPS will be affirmed.

An alien applying for TPS 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 failed to meet this burden.

ORDER: The appeal is dismissed.