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U.S. Department of Homeland Security  
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Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

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FILE:

[REDACTED]  
[WAC 01 242 60153]

Office: CALIFORNIA SERVICE CENTER

Date: **JAN 19 2007**

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, Chief  
Administrative Appeals Office

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

The applicant claims to be 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 on February 12, 2004, because he found that the applicant was inadmissible to the United States under 18 U.S.C. § 11001 as an alien who attempted to gain admission to the United States through the use of fraud and had not filed Form a I-601, Application for Waiver of Grounds of Excludability.

On appeal, the applicant states that he is a citizen of El Salvador and he believes that he qualifies for TPS. He submits additional evidence in an attempt to establish his identity and nationality and his qualifying continuous residence and continuous physical presence in the United States during the requisite time periods.

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;....

Citizenship and Immigration Services (CIS) record A77 594 888 reveals that the applicant was apprehended by the United States Immigration and Naturalization Service, now Customs and Border Protection, on February 18, 2000, near San Diego, California, when he presented himself for immigration inspection with a valid Form I-586, Mexican Nonresident Alien Border Crossing Card, issued to [REDACTED] CIS registration number [REDACTED]. After further questioning, the applicant stated under penalty of perjury before immigration officers that his true name was [REDACTED] and that he was born on March 22 1980, in Guadalajara, Jalisco, Mexico. He stated that he was a Mexican citizen and his parents were both Mexican citizens. The applicant further stated that he had never been a citizen of another country. The applicant admitted, still under oath, that he paid \$50.00 to an unknown vendor in Mexicali, Mexico, for the Form I-586 border crossing card. The applicant had in his possession a Mexican photo identification document under the name [REDACTED] identifying the cardholder as a jeweler. The applicant was found to be inadmissible to the United States under section 212(a)(6)(C)(i) of the Act as a person who willfully attempted to gain admission to the United States through the use of fraud, and was expeditiously removed from the United States to Mexico on February 18, 2000.

On appeal, the applicant states that he is a citizen of El Salvador. He submits a photocopy of the biographic page of his Salvadoran passport and a photocopy of a Salvadoran driver's license.

The applicant's previous claim under penalty of perjury to be a Mexican citizen directly contradicts his current claim to be a citizen of El Salvador. This contradiction raises serious questions of credibility regarding the applicant's claimed nationality. 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. Further, it is incumbent on 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. (Comm. 1988).

In view of the foregoing, it is concluded that the applicant has not affirmatively established his identity and nationality as set forth at 8 C.F.R. § 244.9(a)(1). The application must be denied for this reason.

Beyond the decision of the director, the applicant has not submitted sufficient 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 as set forth at 8 C.F.R. § 244.2(b) and (c). Therefore, the application also must be denied for these reasons.

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 failed to meet this burden.

**ORDER:** The appeal is dismissed.