



U.S. Citizenship
and Immigration
Services

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FILE:



OFFICE: CALIFORNIA SERVICE CENTER

DATE: JUL 02 2007

[WAC 05 225 94754]

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, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, California 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 had failed to establish: (1) his nationality and identity; (2) that he was eligible for late registration; and (3) that he had continuously resided in the United States since February 13, 2001, and had been continuously physically present from March 9, 2001, to the date of filing the application.

On appeal, the applicant states a statement.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an alien who is a national of a foreign state designated by the Attorney General is eligible for temporary protected status 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 8 C.F.R. § 244.4; and
- (f)
 - (1) Registers for TPS 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 condition described in paragraph (f)(2) of this section.

The term *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.

The term *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.

Persons applying for TPS offered to El Salvadorans must demonstrate that they have continuously resided in the United States since February 13, 2001, and that they have been continuously physically present 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. 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 initial registration period for El Salvadorans was from March 9, 2001, through September 9, 2002. The record shows that the applicant filed his initial application on May 13, 2005.

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).

The first issue in this proceeding is whether the applicant is eligible for late registration.

The record of proceeding confirms that the applicant filed his application after the initial registration period had closed. 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.

In a Notice of Intent to Deny (NOID) dated July 24, 2006, the applicant was requested to submit evidence establishing his eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2). The director noted that in response to the NOID, the applicant had failed to provide evidence to establish eligibility for late registration, and denied the application on August 23, 2006.

On appeal, the applicant states that he did not apply during the initial registration period because he did not have the money to pay the application fee.

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 TPS application for this reason will be affirmed.

The second issue in this proceeding is whether the applicant has established his nationality and identity.

In a Notice of Intent to Deny dated July 24, 2006, the applicant was requested to submit evidence to establish his nationality and identity. In response, the applicant submitted a copy of an El Salvadoran passport issued to the applicant at Los Angeles, California, on January 4, 2005. The director determined that the applicant had failed to provide evidence of his nationality and identity, and denied the application on August 23, 2006.

As noted above, the applicant did submit evidence of his nationality and identity; therefore, the applicant has overcome this ground for denial.

The third issue in this proceeding is whether the applicant has established his continuous residence in the United States since February 13, 2001, and continuous physical presence from March 9, 2001, to the date of filing the TPS application.

In a Notice of Intent to Deny dated July 24, 2006, the applicant was requested to submit evidence establishing his qualifying continuous residence and continuous physical presence in the United States. In response, the applicant submitted the following:

1. A letter of certification from Banco Agricola de El Salvador, Los Angeles, California, regarding money transfers made by the applicant during the period from October 23, 2003 through January 14, 2005, and a copy of a money transfer receipt from Banco Agricola dated February 25, 2005.
2. A letter of employment from [REDACTED], Los Angeles, California, certifying that the applicant was employed with that company since February 16, 2004.
3. A copy of a letter from the Internal Revenue Service in Pennsylvania dated April 5, 2005.
4. A copy of a statement dated February 25, 2005, from [REDACTED] Pastor of St. Agatha Church, Los Angeles, California, stating that the applicant has been a member of the parish since May 2000.
5. A statement dated March 3, 2005, from [REDACTED] stating that he is a courier and travels "to El Salvador Every other Month," and that since February 5, 2001, he has been "taking correspondence and economic help from him [the applicant] to his relatives in El Salvador."

The director determined that the evidence furnished by the applicant to establish residence and physical presence during the requisite period was insufficient and denied the application on August 23, 2006.

On appeal, the applicant asserts that he had submitted proof of his residence since the year 2001 to the present. He submits a copy of his El Salvadoran passport issued on January 4, 2005, in Los Angeles, California.

The statement from [REDACTED] (No. 4 above) 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, and how he knows the applicant. The

pastor indicated that the applicant is a member of his parish; however, he failed to show inclusive dates of the applicant's membership at that church. Although [REDACTED] (No. 5 above) indicated that he is a courier, he failed to list the name his employer, and evidence that he, in fact, had provided services for the applicant, and the dates he had rendered such services.

Regulations at 8 C.F.R. § 244.9(a)(2) do not expressly provide that personal affidavits on an applicant's behalf are sufficient to establish the applicant's qualifying continuous residence or continuous physical presence in the United States. Moreover, the affidavits or statements, provided by the applicant to establish his qualifying residence in the United States, were not supported by any other corroborative evidence. The remaining evidence contained in the record only establishes the applicant's continuous residence and continuous physical presence since October 2003 to the date of filing the TPS application. The applicant claimed to have lived in the United States since May 2000. It is reasonable to expect that the applicant would have some other type of contemporaneous evidence to support his claim; however, no such evidence has been provided.

The applicant has failed to establish that he has met the criteria for continuous residence in the United States since February 13, 2001, and continuous physical presence since March 9, 2001, as described in 8 C.F.R. § 244.2(b) and (c). Consequently, the TPS application will also be denied on this ground.

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.