



U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
[EAC 02 272 51781]

Office: VERMONT SERVICE CENTER

Date: JUL 16 2007

IN RE: Applicant: [REDACTED]

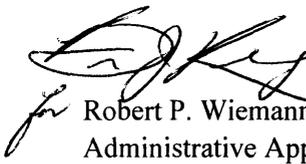
APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT:

[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.


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 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 determined that the applicant was ineligible for TPS because it appeared that he had failed to show that he was not firmly resettled in another country other than El Salvador prior to arriving in the United States.

On appeal, the applicant requests that his case be reopened.

An alien shall not be eligible for temporary protected status if the Attorney General finds that the alien was firmly resettled in another country prior to arriving in the United States. Sections 244(c)(2)(B)(ii) and 208(b)(2)(A)(vi) of the Immigration and Nationality Act (the Act).

As defined in 8 C.F.R. § 208.15, an alien is considered to be firmly resettled if, prior to arrival in the United States, he or she entered into another country with, or while in that country received, an offer of permanent resident status, citizenship, or some other type of permanent resettlement unless he or she establishes:

(a) That his or her entry into that country was a necessary consequence of his or her flight from persecution, that he or she remained in that country only as long as was necessary to arrange onward travel, and that he or she did not establish significant ties in that country; or

(b) That the conditions of his or her residence in that country were so substantially and consciously restricted by the authority of the country of refuge that he or she was not in fact resettled. In making his or her determination, the asylum officer or immigration judge shall consider the conditions under which other residents of the country live; the type of housing, whether permanent or temporary, made available to the refugee; the types and extent of employment available to the refugee; and the extent to which the refugee received permission to hold property and to enjoy other rights and privileges, such as travel documentation that includes a right of entry or reentry, education, public relief, or naturalization, ordinarily available to others resident in the country.

The record indicates that the applicant was born in Mexico of Mexican parents. The applicant submitted one birth certificate, which stated in English that the applicant's father was El Salvadoran. However, the applicant submitted another birth certificate, which indicates that both parents are Mexican. In addition, one birth certificate lists the applicant's date of birth as September 12, 1973 and the other birth certificate lists his date of birth as March 3, 1973. Furthermore, counsel for the applicant states in a November 2, 2002 letter that the applicant's mother was born in El Salvador. However, the birth certificate indicates the applicant's mother was born in Mexico. These discrepancies have not been satisfactorily explained. 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, in fact, lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988).

On appeal, the applicant submits a copy of a G-325, which lists his nationality as Salvadoran and indicates that he lived in El Salvador from February 1989 to December 1999. However, the applicant has failed to provide any probative evidence to support this claim. The record indicates that the applicant was born in Mexico, of Mexican parents and there is no evidence to establish he had firmly resettled in El Salvador prior to coming to the United States.

The burden of proof is upon the applicant to establish that he meets the above requirements. The applicant's statement and the evidence provided on appeal do not overcome the adverse evidence in the record. Consequently, the director's decision to deny the application for temporary protected status will be affirmed.

An alien applying for temporary protected status has the burden of proving that 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.