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**U.S. Citizenship
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FILE: [REDACTED]
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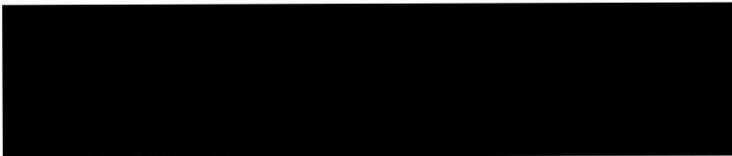
Office: Vermont Service Center Date:

JUN 01 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:



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, Vermont Service Center. A subsequent appeal was dismissed by the Director, Administrative Appeals Office. A subsequent motion to reopen was granted the application again was denied. The matter is now before the Administrative Appeals Office (AAO) on a motion to reopen. The case will be reopened and the appeal will again be dismissed.

The applicant claims to be a 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 he had: 1) continuously resided in the United States since February 13, 2001; and, 2) been continuously physically present in the United States since March 9, 2001.

A subsequent appeal from the director's decision was dismissed on June 24, 2005, after the Director of the AAO also concluded that the applicant had failed to establish that he had been resident and present during the required period. A subsequent motion to reopen was also dismissed by the Chief, AAO on September 8, 2006, because the applicant had failed to establish that he had been resident and continuously present during the required period. On motion to reopen, the applicant reasserts his claim of eligibility for TPS and submits evidence in an attempt to establish his qualifying residence and continuous presence.

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 motion the applicant has submitted the following additional evidence:

1. Letter, dated September 19, 2006, signed by _____ asserting that the applicant has been a patient since August 8, 2000, and visited every six months.
2. Certificate of Disposition for the District Court of the County of Suffolk, New York, bearing a handwritten date.
3. Envelope with the applicant's name and address written on the front.
4. Original Passenger Ticket and Baggage Check ticket bearing the applicant's name and a date of February 12, 2000.

5. Letter, dated July 20, 2005, signed by [REDACTED], asserting that the applicant was a tenant of his from February of 2000 to November of 2002.

In its prior decision the AAO noted inconsistencies which undermined the evidence that had been submitted by the applicant. The passenger ticket listed at number 4, above, is suspicious, as the applicant has previously submitted a passenger ticket and baggage pass for the very same day under a different name. The record also contains a "travel receipt" for a Sun Travel with the last name of the individual scratched out, leaving only the first name of the applicant. Even in a light most favorable to the applicant the ticket would indicate that the applicant had been present for one day, and not necessarily resident or continuously present during the required period. Nonetheless, this evidence is tainted by alterations and inconsistencies, is rejected as authentic evidence, and will not be given any weight in these proceedings.

Doubt cast on any aspect of the petitioner's proof may undermine the reliability and sufficiency of the remaining evidence offered in support of the visa petition. *Matter of Ho*, 19 I&N Dec. 582, 591 (BIA 1988).

The item listed in number two above is suspicious as well, as the "date of offense" on the computer printout is handwritten in to indicate the very day that the required residency period began. The document is not corroborated by any contemporaneous evidence such as court receipts or notices, and even when viewed in a light most favorable to the applicant would indicate that the applicant was present for the date of that offense. Due to the irregularity on the document it is rejected as authentic evidence and will not be given any weight in these proceedings.

The item listed in number three above is of little probative value. There is no indication that the envelope was mailed or utilized contemporaneously with the date stamped on the envelope by the applicant. The envelope contains no information which can be independently verified, and due to its susceptibility to fraud it does not provide significant support to the applicant's assertions.

The letters submitted listed at numbers 1 and 5 above are also of little probative value. The letters are not supported by any other corroborative evidence such as receipts, medical invoices, medical records or other corroborating documentation. While 8 C.F.R. § 244.9(a)(2)(vi) specifically states that additional documents such as letters "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 2000. It is reasonable to expect that the applicant would have some other type of contemporaneous evidence to support these letters; however, no such 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). In this case the record of proceeding is littered with inconsistent, altered documentation which lacks credibility, the letters submitted by the applicant are not sufficient to overcome prior inconsistencies. It is determined that 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 AAO's decision of September 8, 2006 will be affirmed.

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 motion to reopen is dismissed. The previous decision of the AAO dated September 8, 2006, is affirmed.