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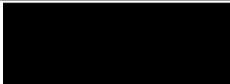
U.S. Citizenship
and Immigration
Services

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FILE:



[WAC 05 288 70606]

OFFICE: California Service Center

DATE:

MAR 22 2007

IN RE:

Applicant:



APPLICATION:

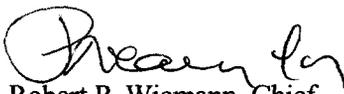
Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

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. It is now on appeal before the Administrative Appeals Office (AAO). The appeal will 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 on the ground that the applicant failed to establish that he is eligible for late registration.

On appeal the applicant requests that his case be reviewed.

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 designated by the Attorney General 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.
- (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 conditions described in paragraph (f)(2) of this section.

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.

El Salvadoran nationals applying for TPS must demonstrate continuous residence in the United States since February 13, 2001, and continuous physical presence since March 9, 2001. The initial registration period for El Salvadorans was from March 9, 2001, through September 9, 2002. The record reveals that the applicant filed his initial TPS application with Citizenship and Immigration Services (CIS) on July 14, 2005.

To qualify for late registration, the applicant must provide evidence that during the initial registration period he satisfied at least one of the criteria enumerated in 8 C.F.R. § 244.2(f)(2) above.

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 CIS. *See* 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. *See* 8 C.F.R. § 244.9(b).

On April 13, 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), as well as documentary evidence of his continuous residence in the United States since February 13, 2001, and his continuous physical presence in the United States since March 9, 2001. In response the applicant, who claims to have entered the United States without inspection on July 20, 2000, submitted photocopies of his federal income tax return for 2005 and three stamped air mail envelopes addressed to him in the United States from individuals in El Salvador, as well as two letters from acquaintances in the United States who state that they have known the applicant since 2001 or 2002.

In a Notice of Decision issued on April 13, 2006, the director determined that the evidence submitted by the applicant failed to establish his eligibility for TPS. In particular, the director found that the applicant failed to submit evidence of his eligibility for late registration.

The applicant filed a timely appeal, but did not submit any additional documentation in support of his application. The record still contains no evidence to show that the applicant is eligible for late registration under any of the criteria enumerated at 8 C.F.R. § 244.2(f)(2). Accordingly, the director's decision denying the application on this ground will be affirmed.

Beyond the decision of the director, the AAO determines that the evidence of record is insufficient to show that the applicant has been continuously physically present in the United States since March 9, 2001, and continuously resident in the United States since February 13, 2001, as required for TPS applicants from El Salvador under 8 C.F.R. § 244.2(b) and (c). The previously submitted materials include the applicant's federal income tax return for 2005, which confirms his presence in the United States that year, and two letters from acquaintances of the applicant, both dated in April 2006. One letter is from an individual in Gaithersburg, Maryland, who claims to have known the applicant since 2002 but provides no information about where he lived and worked at that time and since, and whether they have remained in contact over the years. The other letter is from a [REDACTED] Wilson from the [REDACTED] who claims that the applicant assisted in the church for three months in 2001 and also "assisted us with our congregation for a long time." This letter likewise provides no information about where the applicant lived while in Georgia, is vague about how long he was there, and does not indicate that the church representative knows anything about the applicant's whereabouts and activities after leaving Georgia. The photocopied air mail envelopes from El Salvador bearing postal cancellation dates of April 13, 2000 and September 27, 2002 (the year of the third envelope's postal stamp is illegible) are all addressed to the applicant at the same address in Silver Spring, Maryland. Though the addressor on each letter is different, the handwriting on each envelope appears to be identical. The applicant has not explained how three different envelopes from three different persons at three different addresses in San Salvador, El Salvador, would all be written in the same script. Moreover, some of the postage stamps appear to be placed over, rather than under, the postal cancellation dates.

It is incumbent upon an applicant to resolve any inconsistencies in the record by independent objective evidence. Attempts to explain or reconcile such inconsistencies will not suffice without competent evidence pointing to where the truth lies. *See Matter of Ho*, 19 I&N Dec. 582, 591-92, (BIA 1988). No such competent evidence has been submitted by the applicant to resolve the anomalies in the air mail envelopes. Moreover, doubt cast on any aspect of the applicant's evidence reflects on the reliability of the petitioner's remaining evidence. *See id.*

Based on the foregoing analysis, the AAO determines that the record fails to establish that the applicant meets the continuous residence and continuous physical presence requirements for TPS applicants from El Salvador. Accordingly, the application must be denied on these grounds as well.

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 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 that burden.

ORDER: The appeal is dismissed.