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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

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FILE:

[WAC 05 347 70328]

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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

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 is 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 grounds that the applicant failed to establish that he continuously resided in the United States since February 13, 2001, and was continuously physically present in the United States since March 9, 2001, as required for TPS applicants from El Salvador, and that he either filed for TPS during the initial registration period or filed a late TPS application during the requisite time period.

On appeal the applicant requests that his case be reviewed and submits some letters from acquaintances in the United States.

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, who claims to have entered the United States without inspection on June 15, 2000, filed his initial TPS application with Citizenship and Immigration Services (CIS) on September 12, 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 February 22, 2006, the director issued a Notice of Intent to Deny (NOID) in which the applicant was requested to submit evidence of his qualification for late registration, his date of entry into the United States, his identity/nationality, as well as his residence and physical presence in the United States from the dates applicable to El Salvadoran nationals. The applicant was advised to submit the requested evidence within 33 days. The applicant did not respond to the NOID during the required time period.

In a Notice of Decision dated May 11, 2006, the director noted the applicant's failure to respond to the NOID and denied the application on the grounds that the applicant failed to establish that he has been a continuous resident

of the United States since February 13, 2001, and continuously physically present in the country since March 9, 2001; and that he was eligible for late TPS registration under 8 C.F.R. § 244.2(f)(2) and filed a timely late registration application within the 60-day time period specified in 8 C.F.R. § 244.2(g).

The applicant filed a timely appeal, and subsequently submitted three letters from acquaintances in the United States who claim to have known him since the years 2000-2002. One letter, dated February 27, 2006, is from an individual who claims that the applicant worked for her distributing a newspaper for five months in 2001. The other two letters, one of which is dated February 25, 2006, and the other of which is undated, are in identical language from individuals who claim that they have known the applicant since 2000 and 2002, respectively, and that they worked together. The letters provide few if any details about how the individuals met the applicant, and no information about the nature of their interaction over the years. None of the letters provides the applicant's address(es) from 2000 to 2006. In fact, none of the letters provides the author's own address. The only other document in the record bearing on the applicant's residence and presence in the United States is a photocopy of his 2005 federal income tax return. 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).

If the applicant has lived in the United States since June 2000, as he claims, it is reasonable to expect that he would have more contemporaneous documentation. Letters from acquaintances are not, by themselves, persuasive evidence of residence or physical presence in the United States. Simply going on record without supporting documentation does not satisfy the applicant's burden of proof. *See Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)). As the record fails to establish that the applicant meets the continuous residence and physical presence requirements for TPS applicants from El Salvador, the director's decision to deny the application on these grounds will be affirmed.

Furthermore, the record confirms that the applicant filed his application three years after the initial registration period for El Salvadoran nationals had expired. No evidence has been submitted to establish 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 to deny the application on this ground will also be affirmed.

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.

The record indicates that since the filing of the appeal in this TPS proceeding a Form I-140, Immigrant Petition for Alien Worker, filed on the applicant's behalf by ~~Airway Sheet Metal Company, Inc.~~ of Sterling, Virginia, was approved by the Texas Service Center on August 18, 2006.

ORDER: The appeal is dismissed.