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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:



OFFICE: CALIFORNIA SERVICE CENTER

DATE: MAR 26 2007

[WAC 05 228 87509]

IN RE:

Applicant:



APPLICATION:

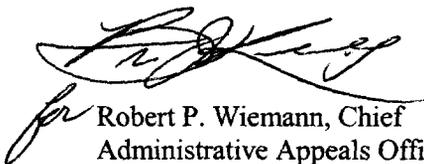
Application for Temporary Protected Status under Section 244 of the Immigration
and Nationality Act, 8 U.S.C. § 1254

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.


for 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 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 denied the application because the applicant had failed to submit evidence to establish eligibility for late registration, and to establish his identity.

On appeal, the applicant submits a statement and additional evidence.

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 16, 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 from March 9, 2001 through September 9, 2002, he fell within the provisions described in 8 C.F.R. § 244.2(f)(2) (listed above).

In a Notice of Intent to Deny (NOID) dated March 4, 2004, 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 applicant was also requested to submit evidence to establish his identity, and to establish continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States from March 9, 2001, to the date of filing the application. The director noted that the evidence furnished in response to the NOID was insufficient to establish eligibility for late registration, and denied the application on August 5, 2006.

On appeal, the applicant asserts that he sent documents to prove his eligibility for TPS. He submits additional evidence in an attempt to establish his qualifying continuous residence and continuous physical presence in the United States.

The evidence, however, does not mitigate the applicant's failure to file his TPS application within the initial registration period. The applicant neither addressed nor 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 on this ground will be affirmed.

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

The director's NOID dated March 4, 2004, requested that the applicant submit evidence to establish his identity. The director determined that in response, the applicant failed to submit any evidence to establish his identity and denied the application on August 5, 2006.

On appeal, the applicant resubmits a copy of an El Salvadoran birth certificate. However, the certificate was not accompanied by photo identification to establish the applicant's nationality and identity as required by 8 C.F.R. § 244.9(a)(1). Therefore, the application will also be denied for this reason.

The next 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 (NOID) dated March 4, 2004, the applicant was requested to submit evidence establishing continuous residence and continuous physical presence in the United States during the requisite period. In response, the applicant submitted:

1. Copies of receipts for the rent of a room dated January 2, 2001; March 3, 2001; April 4, 2001; May 1, 2001; July 1, 2001; September 1, 2001; December 1, 2001; February 1, 2002; May 1, 2002; July 1, 2002; September 1, 2002; November 1, 2002; January 1, 2003; April 1, 2003; July 1, 2003; September 1, 2003; and March 1, 2004.
2. A statement dated May 23, 2006, from [REDACTED], Tree Division Supervisor, indicating that the applicant started working for Mission Landscape Services Inc. on July 6, 2004.
3. A statement dated June 10, 2006, from [REDACTED] indicating that the applicant worked for him as his helper from January 2001 to December 2003.

The director noted that the evidence furnished in response to the NOID was insufficient to establish eligibility for TPS and denied the application on August 5, 2006.

On appeal, the applicant resubmits the statement from [REDACTED] (No. 2 above). He also submits:

4. A statement dated August 24, 2006, from [REDACTED] indicating that the applicant lived in his home since January 20, 2001 to the present.
5. A statement dated August 24, 2006, from [REDACTED] indicating that the applicant worked for him as his gardener from January 2001 to the present.
6. A statement dated August 24, 2006, from the Tree Division Supervisor of Mission Landscape Services, Inc., whose signature is illegible, indicating that the applicant started working for the company on February 16, 2006.

The rent receipts (No. 1 above) are generic and have little evidentiary value. Although the receipts were signed by a person whose name is illegible, no other information, such as the address of the property or room rented and a telephone number, was listed. While the applicant submitted a statement from [REDACTED] (No. 4 above) indicating that the applicant lived at his home, [REDACTED] failed to list his address, and his signature is different from that of the rent receipts.

The statement from [REDACTED] claiming to be the [REDACTED] (No. 2 above), and the statement from another [REDACTED] (No. 6 above) are contradictory, and neither of the statements were sworn to or notarized. [REDACTED] failed to sign his statement, and indicated that the applicant started working for [REDACTED] on July 6, 2004; however, the statement from another individual whose signature was illegible indicated that the applicant started working for the same company on February 16, 2006. 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). The applicant has failed to submit any objective evidence to explain or justify the discrepancies in the evidence presented. Therefore, the reliability of the remaining evidence offered by the applicant is suspect, and it must be concluded that the applicant has failed to establish that he has met the residence and physical presence criteria for TPS.

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, provided by the applicant to establish his qualifying residence in the United States, were not supported by any other corroborative evidence. The applicant claimed to have lived in the United States since August 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.

Accordingly, 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.