



U.S. Citizenship  
and Immigration  
Services

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*ML*

FILE:

[REDACTED]

Office: VERMONT SERVICE CENTER

Date: **NOV 13 2007**

[EAC 07 087 70509]

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:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the Vermont Service Center. Any further inquiry must be made to that office.

*John H. Vaughan*  
*for*

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, Vermont Service Center (VSC), and is now before the Administrative Appeals Office (AAO) on appeal. 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 because the applicant failed to establish that he was eligible for late registration. The director also found that the applicant had failed to establish his identity and nationality, and his qualifying continuous residence and continuous physical presence in the United States during the requisite time periods.

On appeal, the applicant submits a brief statement.

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 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 § 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.

Persons applying for TPS offered to El Salvadorans 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 Salvadorans was from March 9, 2001, through September 9, 2002.

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

The burden of proof is upon the applicant to establish that he 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 burden of proof the applicant must provide supporting documentary evidence of eligibility apart from his own statements. 8 C.F.R. § 244.9(b).

The applicant filed a first Form I-821, Application for Temporary Protected Status, with the Texas Service Center (TSC) on August 29, 2002 (SRC 02 258 53600 relates). The record reveals that that application was denied on April 17, 2003.

The applicant filed the current Form I-821 with the VSC on December 25, 2006, and indicated that it was an initial TPS application.

On February 8, 2007, the director requested the applicant 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 nationality, and his qualifying continuous residence and continuous physical presence in the United States during the requisite time periods. The applicant responded on March 5, 2007, but did not submit all of the requested documentation.

The director determined that the applicant had failed to establish that he was eligible for late registration, and had failed to establish his identity and nationality, as well as his qualifying continuous residence and continuous physical presence in the United States during the requisite time periods. The director denied the application on April 10, 2006. The applicant filed his appeal from that decision on April 30, 2006.

On appeal, the applicant states that he really needs to work legally in the United States in order to support his family economically and give them a better way of life and a better future.

A review of the record reveals that the applicant has submitted the following evidence in support of his eligibility for TPS:

1. A photocopy of an abstract of his El Salvadoran birth certificate, with English translation;
2. Letters and affidavits from acquaintances attesting to their knowledge of the applicant;
3. A letter from the Congregational Holiness Church, Inc., Griffin, Georgia, dated February 14, 2007, stating that the applicant had been a member of the congregation since August 2001;
4. Photocopies of uncertified Internal Revenue Service (IRS) Forms 1040, U.S. Individual Income Tax Returns, for the years 2001 through 2006; and,
5. International money transfer receipts from Vigo, dated July 11, 2004 through November 2004.

The first issue in this proceeding is whether the applicant is eligible for late registration.

The applicant has not 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 application on this ground will be affirmed.

The second issue in this proceeding is whether the applicant has established his qualifying continuous residence and continuous physical presence in the United States during the requisite time periods.

The applicant claims to have lived in the United States since September 15, 2000. It is reasonable to expect that he would have a variety of contemporaneous evidence to support this claim. Affidavits from acquaintances are not, by themselves sufficient evidence of qualifying residence and physical presence.

The IRS forms can be given little weight, as they are not accompanied by IRS Forms W-2, Wage and Tax Statements, or certification of filing with the Federal, state, or local government, as required by 8 C.F.R. §244.9(a)(2)(i). While 8 C.F.R. § 244.9(a)(2)(vi) states that additional documents such as money order

receipts "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 continuous residence and continuous physical presence in the United States. Furthermore, the receipts provided are all dated after the required dates.

There is also a discrepancy noted with regard to the church letter, dated February 14, 2007. The church claims that the applicant has been a member of the congregation in Griffin, Georgia, since August 2001. However, the record indicates that the applicant moved from Georgia long before the letter was written in 2007. This discrepancy in the applicant's submission has not been explained satisfactorily. Doubt cast on any aspect of the evidence as submitted may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of an application. Further, it is incumbent on the applicant to resolve any inconsistencies in the record by independent objective evidence; any attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582. (Comm. 1988).

Based on the documentation provided, the applicant has not established his continuous physical presence in the United States from March 9, 2001, to the date he filed for TPS, and his continuous residence in the United States since February 13, 2001, as required for El Salvadoran nationals under 8 C.F.R. § 244.2(b) and (c). Consequently, the director's decision to deny the application on these grounds will also be affirmed.

The third issue in this proceeding is whether the applicant has established his identity and nationality.

8 C.F.R. § 244.9, states that each application for TPS must be accompanied by evidence of the applicant's identity and nationality.

Sec. 244.9 Evidence.

(a) *Documentation.* Applicants shall submit all documentation as required in the instructions or requested by the Service. The Service may require proof of unsuccessful efforts to obtain documents claimed to be unavailable. If any required document is unavailable, an affidavit or other credible evidence may be submitted.

(1) *Evidence of identity and nationality.* Each application must be accompanied by evidence of the applicant's identity and nationality, if available. If these documents are unavailable, the applicant shall file an affidavit showing proof of unsuccessful efforts to obtain such identity documents, explaining why the consular process is unavailable, and affirming that he or she is a national of the designated foreign state. A personal interview before an immigration officer shall be required for each applicant who fails to provide documentary proof of identity or nationality. During this interview, the applicant may present any secondary evidence that he or she feels would be helpful in showing

nationality. Acceptable evidence in descending order of preference may consist of: (Amended 11/16/98; 63 FR 63593)

- (i) Passport;
- (ii) Birth certificate accompanied by photo identification; and/or
- (iii) Any national identity document from the alien's country of origin bearing photo and/or fingerprint.

Although the record contains a photocopy of an abstract of the applicant's birth certificate, the applicant has not provided photo identification. Consequently, 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 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.