



U.S. Citizenship  
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Services

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FILE: [REDACTED]  
[EAC 01 202 57022]

Office: VERMONT SERVICE CENTER

Date: FEB 15 2008

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 office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The Director, Vermont Service Center (VSC), denied the application. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant claims to be a citizen and national of El Salvador who seeks 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 submitted birth certificates from both Honduras and El Salvador and failed to establish his place of birth.

On appeal, the applicant asserts that he is a citizen of El Salvador and asserts his eligibility for TPS.

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.

It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the applicant submits competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

The burden of proof is on 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 record reflects that on June 16, 1999, the applicant filed an application (EAC 99 208 50306) under the TPS program designated for citizens of Honduras. On his application, the applicant indicated that his name was [REDACTED] and listed his place of birth as [REDACTED] Honduras. In support of the application, the applicant submitted a photocopy of a Honduran birth certificate, indicating that [REDACTED] was born on May 23, 1975, in Distrito Central, [REDACTED], Honduras, to [REDACTED] and [REDACTED].

On November 15, 1999, the director requested that the applicant submit evidence of his qualifying continuous residence and continuous physical presence. The applicant did not respond to the director's request.

On June 26, 2000, the director denied the application as abandoned. The applicant did not appeal the decision.

On May 22, 2001, the applicant submitted the current application (EAC 01 202 57022) under the TPS program designated for citizens of El Salvador. The applicant indicated that his name is [REDACTED] and listed his place of birth as La Paz, El Salvador. In support of the application, the applicant submitted a photocopy of a Salvadoran birth certificate, indicating that [REDACTED] was born on May 23, 1975, in [REDACTED], El Salvador, to [REDACTED] and [REDACTED].

On February 18, 2003, the director requested that the applicant submit evidence of his qualifying continuous residence and continuous physical presence. The director also requested that the applicant submit the birth certificate for [REDACTED], issued by the appropriate civil authority showing timely registration, date and place of birth, and parents' names. The applicant did not respond to the director's request. The director denied the application.

On March 5, 2004, the applicant filed an appeal, asserting that he had not received the director's request.

On October 25, 2005, the director found that the appeal had been filed outside the prescribed period of 33 days, and treated the appeal as a motion. The director indicated that the application was being denied because the applicant failed to establish his place of birth as El Salvador. Additionally, the director indicated that the applicant's place of birth was being questioned because the applicant submitted birth certificates from two different countries, El Salvador and Honduras. Finally, the director informed the applicant that if he wished

to appeal the denial of his application that he had to submit the original birth certificates from El Salvador and Honduras so that they could be sent to the Forensic Document Laboratory for examination.

On appeal, the applicant asserts that he is a citizen of El Salvador because he was born La Paz, El Salvador on May 23, 1975. He submits additional documentation in support of his claim, including: a certified Salvadoran birth certificate, indicating that [REDACTED] was born on May 23, 1975, in Canton San Antonio, [REDACTED], El Salvador; his Salvadoran passport, indicating a date of birth of May 23, 1975, and a place of birth Santiago Nonualco, La Paz; his marriage certificate; the birth certificate of his daughter, [REDACTED] born on June 19, 2003, in Cabarrus, North Carolina, listing the applicant's place of birth as El Salvador; and, the birth certificate of his daughter [REDACTED] born on April 13, 2001, in Arlington County, Virginia, listing the applicant's place of birth as El Salvador.

Regarding the Honduran birth certificate, the applicant states the following:

I never had a Birth Certificate of Honduras. I went to a person to ask for help and he filled out the forms and charged me for doing it. When I received the notice for the fingerprint appointment I did not present myself since I had no documents of that country. I was lied to, I had no idea what was being done, I was only told I would be issued an Employment Authorization card.

The applicant's explanation is not sufficient to resolve the inconsistency regarding his nationality. First, the signatures on both applications appear to be the same, indicating that the applicant signed them and, in doing so, certified, under penalty of perjury, that the information listed in the applications was true and correct. The applicant appears to be asserting that he was unaware that the person who prepared his Honduran TPS application submitted a Honduran birth certificate on his behalf. Even if the preparer attached a fraudulent Honduran birth certificate to the application without the applicant's knowledge, the applicant has not explained why he signed an application that listed his place of birth as Honduras. Second, both birth certificates contain the same name and date of birth, making it even more difficult to ascertain the applicant's true nationality. Furthermore, the applicant did not submit the original Honduran birth certificate, as requested. As such, the authenticity of that birth certificate could not be verified. Finally, the AAO notes that the same individual who prepared the applicant's Honduran TPS application in 1999, [REDACTED] is the same individual who prepared the applicant's Salvadoran TPS application in 2001. The applicant has not explained why he had the preparer of his Honduran application help him with his Salvadoran TPS application in 2001, if he knew in 1999, when he got the fingerprint notice for Honduran TPS, that the preparer had lied to him and submitted fraudulent documents on his behalf. The applicant has not established his place of birth. Accordingly, the director's decision to deny the application on this ground will be affirmed.

An alien applying for TPS has the burden of proving that he or she meets the requirements listed above and is otherwise eligible under the provisions of section 244 of the Act. The applicant has met this burden.

**ORDER:** The appeal is dismissed.