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**U.S. Citizenship
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Services**

PUBLIC COpy



FILE: [REDACTED]
[EAC 07 004 75750J

Office: Vennont Service Center

Date: **MAY 27 2008**

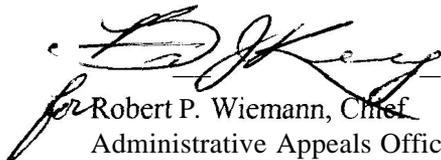
INRE: Applicant: [REDACTED]

APPLICAnON: 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 Vennont Service Center office. 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, Vennont Service Center, and is now before the Administrative Appeals Office 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 record reveals that the applicant filed an initial TPS application on September 4, 2006, under Citizenship and Immigration Services (CIS) receipt number EAC 07 004 75750. The director denied the application on April 30, 2007, because the applicant failed to submit evidence to establish eligibility for late initial registration, and his qualifying continuous residence and continuous physical presence in the United States.

On appeal, the applicant asserts his eligibility for TPS and submits documentation in an attempt to establish his claim.

Section 244(c) of the Act, and the related regulations in 8 CF.R. § 244.2, provide that an applicant who is a national of a foreign state as 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 section 244.3;
- (e) Is not ineligible under 8 CF.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 conditions described in paragraph (€)(2) of this section.

Continuously physically present 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.

Continuously resided 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.

Brief, casual, and innocent absence means a departure from the United States that satisfies the following criteria:

- (1) Each such absence was of short duration and reasonably calculated to accomplish the purpose(s) for the absence;
- (2) The absence was not the result of an order of deportation, an order of voluntary departure, or an administrative grant of voluntary departure without the institution of deportation proceedings; and
- (3) The purposes for the absence from the United States or actions while outside of the United States were not contrary to law.

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. The record reveals that the applicant filed his TPS application on September 4, 2006.

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. 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 initial registration for TPS.

On appeal, the applicant states that he is eligible for TPS late registration under Section 244.2(€)(2)(iv). A review of the record of the applicant's father, _____, reflects that he was granted TPS on April 8, 2002. As such, the applicant has established that he has met one of the criteria for late registration described in 8 C.F.R. § 244.2(€)(2). Therefore, the director's decision to deny TPS, for this reason, is withdrawn. However, in addition to meeting the criteria for late registration, the applicant must also establish his continuous residence in the United States since February 13, 2001, and his continuous physical presence in the United States since March 9, 2001.

The next issue in this proceeding is whether the applicant has established the requisite continuous residence and continuous physical presence in the United States.

Along with his appeal, the applicant provided copies of:

1. A letter, dated September 1, 2006, by _____ Pastor, of Our lady of Guadeloupe church located in Mendota, California. Pastor states that the applicant has been a member of the parish from January 15, 2001;
2. Three personal affidavits, dated April 9, 2007, from _____ **and** _____
••••• The three affiants state that they have known the applicant since his arrival in the United States in January 2001; and,
3. A photocopy of an EI Salvador passport of _____ including the biographic page.

Although the applicant has provided a letter and three affidavits, these documents lack probative value. Neither Pastor _____ nor the affiants indicated how they dated their acquaintance with the applicant, how they met the applicant or how frequently they saw the applicant. Also, the applicant does not submit any contemporaneous evidence in support of his claim of continuous residence and continuous physical presence in the United States. Given the absence of sufficiently detailed documentation to corroborate the applicant's claim, it must be concluded that the applicant has failed to establish the requisite continuous residence and continuous physical presence.

Furthermore, although the applicant claims that he has been in the United States since December 17, 2000, a review of his father's file, _____, reveals that his father indicated on his initial TPS application, filed on August 3, 2001, as well as on his re-registration applications, filed on September 15, 2003 and on February 2, 2005, that the applicant was residing in EI Salvador at the time. This casts doubt on whether the applicant's claimed entry into the United States is true. 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 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 his claimed date of entry and the evidence of record. 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 his continuous residence and continuous physical presence in the United States.

Consequently, the director's conclusion that the applicant has not met the continuous residence and the continuous physical presence criteria for TPS is 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.