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U.S. Department of Homeland Security  
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Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

M1



FILE:



Office: VERMONT SERVICE CENTER

Date: APR 11 2005

[EAC 03 118 52163]

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, Director  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, Vermont Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The applicant is 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 failed to establish that he was eligible for late registration.

On appeal, the applicant provides some additional documentation.

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 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 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 conditions described in paragraph (f)(2) of this section.

The issue raised by the director to be addressed in this proceeding is whether the applicant is eligible for late registration.

Persons applying for TPS offered to El Salvadorans must demonstrate entry on or prior to February 13, 2001, 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. A subsequent extension of the TPS designation has been granted by the Secretary of the Department of Homeland Security, with validity until September 9, 2006, upon the applicant's re-registration during the requisite time period.

As stated in 8 C.F.R. § 244.1, "register" means "to properly file, with the director, a completed application with proper fee, for Temporary Protected Status during the registration period designated under section 244(b) of the Act."

The initial registration period for El Salvadorans was from March 9, 2001 through September 9, 2002. The record reflects that the applicant filed his application on March 5, 2003.

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 own statements. 8 C.F.R. § 244.9(b).

The record of proceeding confirms that the applicant filed his application for TPS on March 5, 2003, after the initial registration period had closed. To qualify for late registration, the applicant must provide evidence that during the initial registration period, he fell within the provisions described in 8 C.F.R. § 244.2(f)(2) (listed above). If the qualifying condition or application has expired or been terminated, the individual must file within a 60-day period immediately following the expiration or termination of the qualifying condition in order to be considered for late initial registration. See 8 C.F.R. § 244.2(g).

In a notice of intent to deny, dated April 7, 2003, the applicant was requested to submit evidence of his eligibility for late registration. The applicant was also requested to submit evidence to establish his continuous residence and his continuous physical presence in the United States during the requisite timeframes.

The director found that the evidence the applicant submitted in response to the notice of intent to deny was "sufficient evidence to show you entered the United States before February 13, 2001, and were continuously

present within the United States from March 9, 2001 to the date of your application.” However, the director found that the applicant failed to submit any evidence to show his “eligibility to file under late initial filing for Temporary Protected Status.” Consequently, the director denied the application on June 10, 2003.

On appeal, the applicant submits generic rent receipts, signed by [REDACTED] for October, November and December of the year 2000. The applicant also provides: a previously submitted letter dated April 10, 2003, from [REDACTED] who states that the applicant has been living with her since “October 2000, until now;” a previously submitted letter dated April 9, 2003, from [REDACTED] who states that the applicant has been working in his restaurant two days a week since November, 2000 until now;” and, a previously submitted receipt from A & H Jewelry dated January 4, 2001. It is noted that the date on the receipt from A & H Jewelry appears to have been altered. It is also noted that it has not been explained as to why [REDACTED] states that the applicant has been living with her for almost three years, but was only able to provide rent receipts for three months in the year 2000. 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, 591-92 (BIA 1988). 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. *Id.*, 582, 591.

The three rent receipts and the previously submitted documentation do not establish the applicant’s eligibility for late registration as described in 8 C.F.R. § 244.2(f)(2) and 8 C.F.R. § 244.2(g). Consequently, the director’s decision to deny the TPS application for this reason must be affirmed.

Beyond the decision of the director, the director erred in stating that the applicant provided sufficient evidence to demonstrate that he has been continuously residing in the United States since February 13, 2001, and that he has been continuously physically present in the United States since March 9, 2001. The above-mentioned letter from [REDACTED] claiming that the applicant is employed by him is not supported by any pay records. In addition, the receipt from A & H Jewelry is questionable, as the date appears to have been altered. Further, the letter from [REDACTED] claiming the applicant has resided with her for almost three years, without supporting documentary evidence such as additional rent receipts, is not sufficient for the purposes of meeting the burden of proof in these proceedings. See *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972). The documentation provided is not sufficient in establishing the applicant’s continuous day-to-day living in the United States since the requisite timeframes. The applicant has failed to provide sufficient evidence to establish that he has met the criteria described in 8 C.F.R. § 244.2(b) and (c). Therefore, the application must also be denied for these reasons.

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.