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U.S. Citizenship
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FILE: [REDACTED]
[EAC 02 267 51484]

Office: VERMONT SERVICE CENTER

Date: JUN 23 2005

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, Director
Administrative Appeals Office

DISCUSSION: The application was initially denied by the Director, Vermont Service Center. The Director granted applicant's motion to reopen, but subsequently denied the application affirming its initial decision to deny. The case 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 had: 1) continuously resided in the United States since February 13, 2001; and 2) been continuously physically present in the United States since March 9, 2001.

On appeal, the applicant asserts his claim of 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 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.

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 in the United States since March 9, 2001. An extension of the TPS designation has been granted with validity until September 9, 2006, upon the applicant's re-registration during the requisite time period.

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).

On July 21, 2003, the applicant was requested to submit evidence establishing his continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States since March 9, 2001. The applicant failed to respond to the director's request for evidence.

The director determined that the applicant had failed to submit sufficient evidence to establish his eligibility for TPS and denied the application on September 18, 2003.

The applicant submitted his appeal on December 20, 2003, which the director treated as a motion due to it being filed after the 33 days allowed by the regulations.

On motion, the applicant reasserted his claim of eligibility for TPS and submitted the following documentation:

1. A copy of a lease agreement dated March 3, 2001, in which it was stated that the premises known as [REDACTED] Washington, DC was rented to the applicant for \$450.00 per month;

2. An affidavit from [REDACTED] Construction Company in which he stated that the applicant worked on a part-time basis with his business since December of 2000; and
3. An affidavit from [REDACTED] in which he stated that the applicant had lived in his home located at [REDACTED] since December of 2000, paying \$250.00 a month in rent.

The director again determined that the applicant had failed to submit sufficient evidence to establish his eligibility for TPS and denied the application on February 25, 2004. The director noted the inconsistent information contained in the record regarding the applicant's place of residence.

On appeal, the applicant reasserts his claim of eligibility for TPS and states that he used his name to help a friend obtain the apartment at [REDACTED] NW, and that his principal place of residence is the [REDACTED] address.

The applicant has not submitted sufficient evidence to establish his qualifying continuous residence or continuous physical presence in the United States during the period from February 13, 2001, to August 16, 2002. Although the applicant claims that he used his name to help a friend obtain the apartment at Longfellow Street, NW, it is significant to note that the applicant submitted a copy of the lease agreement in an attempt to prove his continuous residence in the United States. The applicant has not submitted any corroborating evidence to substantiate his claim. Simply going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972). The photocopied lease agreement detailed in No. 1 above appears to have been altered as the original dates, place of residence, and tenant's name seem to have been covered-over and the applicant's name and information has been inserted in its place. The applicant has failed to submit any objective evidence to explain or justify the apparent alteration of the document in No. 1 above. Therefore, the reliability of the remaining evidence offered by the applicant is suspect. Further, 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 employment affidavit from Moreno's Construction Company has little evidentiary weight or probative value as it does not provide basic information that is expressly required by 8 C.F.R. § 244.9(a)(2)(i). Specifically, the affiant does not provide the address where the applicant resided during the period of his employment, and the affidavit lacks specific dates of employment.

The applicant claims to have lived in the United States since December of 2000. It is reasonable to expect that the applicant would have some other type of contemporaneous evidence to support his TPS eligibility claim; however, no such evidence has been provided. The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. 8 C.F.R. § 244.9(b). It is determined that the documentation submitted by the applicant is not sufficient to establish that he satisfies the continuous

residence and continuous physical presence requirements described in 8 C.F.R. §§ 244.2(b) and (c). Consequently, the director's decision to deny the application for temporary protected status will be affirmed.

An alien applying for TPS 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.