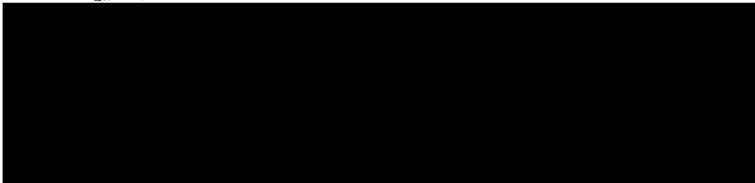




U.S. Citizenship
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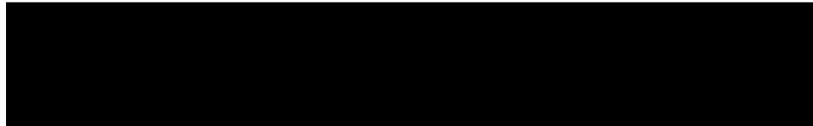
[WAC 05 207 87806]

Office: California Service Center

Date: JAN 31 2007

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.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, California 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 a late initial TPS application on February 22, 2005, under CIS receipt number WAC 05 207 87806. The director denied the application on May 24, 2006, because the applicant failed to submit evidence to establish his continuous residence in the United States from February 13, 2001, his continuous physical presence from March 9, 2001 to the date of filing his TPS application, his eligibility for late initial registration for TPS, and his nationality and identity.

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 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 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.

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 initial application with Citizenship and Immigration Services (CIS) on April 25, 2005.

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).

To qualify for late registration, the applicant must provide evidence that during the initial registration period, he was either in a valid immigration status, had an application pending for relief from removal, was a parolee, or was the spouse/child of an alien currently eligible to be a TPS registrant, and he or she had filed an application for late registration within 60 days of the expiration or termination of the conditions described in 8 C.F.R. § 244.2(f)(2).

With his TPS application the applicant submitted a photocopy of:

1. His El Salvador passport which expired on June 13, 2000;
2. A lease summary statement from [REDACTED], dated December 19, 2001;
3. A birth certificate with an English translation, with a notation indicating that he is married; and
4. Various billing statements for the period 2001 to 2005.

On March 8, 2006, the applicant was provided the opportunity to submit evidence establishing his eligibility for TPS, and eligibility for late initial registration as set forth in 8 C.F.R. § 244.2(f)(2). With his response to the notice of intent to deny, the applicant submitted additional copies of his passport and birth certificate; three money order receipts, made payable to [REDACTED] issued in 2002; and six billing summaries from TXU Electric for services in 2001, 2002, 2003, and 2004.

On appeal, the applicant asserts that he is eligible for late initial registration because he is married to [REDACTED] who is a TPS registrant. With his appeal, in an attempt to establish his continuous residence in the United States, his continuous physical presence, and his eligibility for late initial registration, the applicant submitted affidavits from five individuals; a Bill of Sale, dated August 16, 2000, with a receipt dated June 1, 1996; and some of the same billing statements earlier submitted.

It is noted, however, that the applicant's claimed marriage to a TPS registrant has not been established. The applicant has not submitted proof that he is married to a TPS recipient. The applicant has not submitted a marriage certificate. The applicant has submitted a photocopy of a birth certificate with an unclear notation indicating that the he was married to [REDACTED] on December 14, 1985. However, he has not submitted proof that he is presently married. It is noted that the a review of the A-File for [REDACTED] reveals that although [REDACTED] listed her marital status as "married" on her TPS applications, Form I-821, filed in 2001, 2002, 2003, 2004, and 2005, she did not provide the complete information required, including the applicant's address. Yet, the applicant submitted invoices, dated 2001, 2002, and 2003, showing his address as the same address on invoices for [REDACTED] which she submitted in connection with her TPS applications.

These unexplained discrepancies put into question whether the applicant is married to [REDACTED] as he claims. 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 the 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 marital status as the spouse of a TPS registrant.

The applicant has failed to provide any evidence to establish that this application should be accepted as a late initial registration under 8 C.F.R. § 244.2(f)(2). Therefore, the application also must be denied for this reason.

It is also noted that the applicant has not established the requisite continuous physical presence in the United States. For example, the applicant has not submitted evidence of his physical presence for the periods from August 2004 through December 2004; from May 2003 through August 2003; and from October 2003 through November 2003. Therefore, the application must also be denied for this reason.

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.