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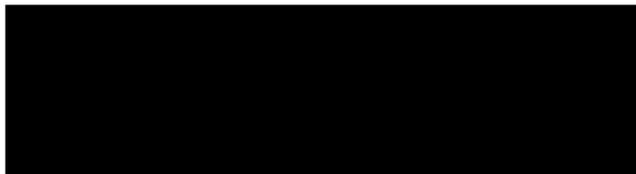
U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529



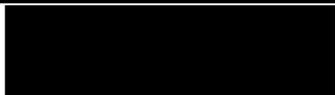
U.S. Citizenship
and Immigration
Services

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FILE:



Office: Vermont Service Center

Date: NOV 24 2007

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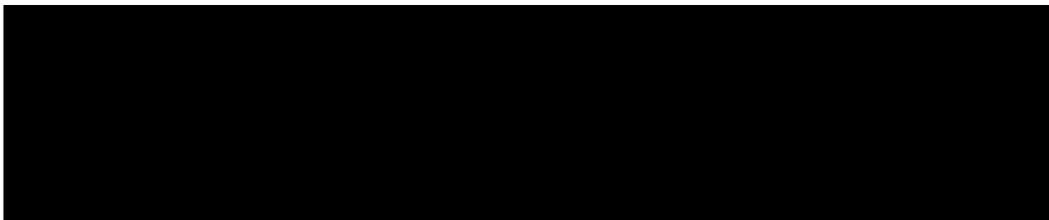
IN RE:

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:



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, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Vermont Service Center (VSC), and is now before the Administrative Appeals Office (AAO) 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 his qualifying continuous residence and continuous physical presence in the United States during the requisite periods.

If all requested initial evidence and requested additional evidence is not submitted by the required date, the application or petition shall be considered abandoned and, accordingly, shall be denied. 8 C.F.R. § 103.2(b)(13). A denial due to abandonment may not be appealed, but an applicant or petitioner may file a motion to reopen. 8 C.F.R. § 103.2(b)(15).

The record reveals that the applicant filed his initial Form I-821, Application for Temporary Protected Status, at the VSC on June 25, 2001. On March 31, 2003, the applicant was requested to submit additional evidence to establish his qualifying continuous residence and continuous physical presence in the United States. When the applicant failed to respond, the director concluded that the applicant had abandoned his application and denied the application on June 11, 2003. The director advised the applicant that, while the decision could not be appealed, the applicant could file a motion to reopen. On July 7, 2003, counsel filed a motion to reopen which was dismissed by the director. Counsel filed an appeal from the director's decision on May 14, 2004, which the AAO remanded to the director as a motion to reopen on November 8, 2005.

In a decision dated December 8, 2005, the director recounted the previous request for evidence of the applicant's continuous residence and continuous physical presence in the United States, reviewed the record of proceedings, including the evidence of the applicant's residence and physical presence in the United States submitted with the motion to reopen, determined that the grounds for denial had not been overcome, and affirmed the previous decision denying the application.

The applicant filed a timely appeal and submitted additional documentation relating to his continuous residence and continuous physical presence in the United States. The applicant claims that he entered the United States on December 12, 2000, and was paid in cash for his work from that time until October 25, 2002. The applicant provided copies of the following documentation on appeal: previously submitted affidavits from acquaintances; two Employment Authorization Documents (EADs), one valid from July 13, 2001, to September 9, 2002, and the other valid from May 26, 2005, to September 9, 2006; two photographs; a Western Union money order dated September 18, 2002; an application for employment authorization signed on September 19, 2002; a receipt for services from Catholic Charities dated July 1, 2003; a Form G-28 dated July 1, 2003; a letter from Catholic Charities, dated July 1, 2003, regarding the initial motion to reopen; and a United States Postal Service money order dated June 27, 2003.

The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. 8 C.F.R. § 244.9(b). The previously submitted affidavits from acquaintances have already been considered by the director and are not, by themselves, persuasive evidence of continuous residence and

continuous physical presence in the United States. As for the other documentation submitted by the applicant, none dates prior to June 2001, when the applicant's initial TPS application was filed. It is determined that the evidence of record is insufficient to establish that the applicant was continuously physically present in the United States from March 9, 2001, to the date he filed for TPS on June 25, 2001, and that he has been continuously resident in the United States since February 13, 2001, as required for El Salvadoran nationals under 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.

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 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.