

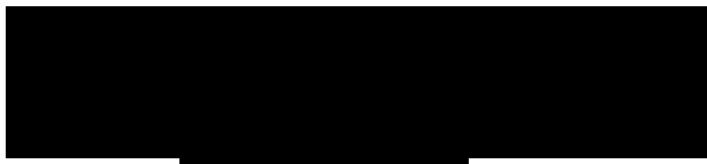


**U.S. Citizenship  
and Immigration  
Services**

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FILE:

[EAC 07 003 77140]

Office: Vermont Service Center

Date: JAN 08 2008

IN RE:

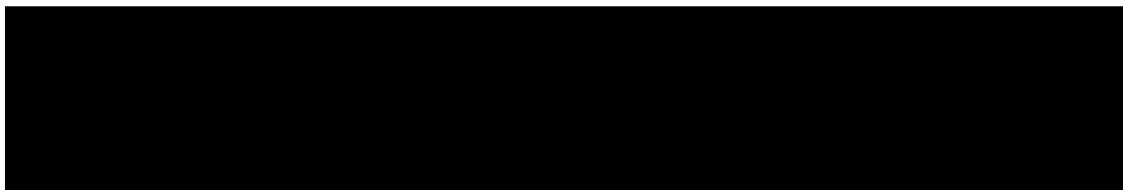
Applicant:



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 Vermont Service Center. Any further inquiry must be made to that office.

A handwritten signature in black ink.

Robert P. Wiemann, Chief  
Administrative Appeals Office

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

The applicant is stated to be 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 October 7, 2006, under CIS receipt number EAC 07 003 77140. The Director, Vermont Service Center, denied the application on May 24, 2007, because the applicant failed to establish that he was a citizen or national of El Salvador. The director noted that the applicant failed to respond to an April 9, 2007, notice of intent to deny requesting evidence to establish his eligibility for TPS, including evidence of his nationality and identity.

On appeal, counsel asserts that the applicant has established that he is a national of El Salvador, and states that the record of the applicant's asylum proceedings establishes his nationality. Counsel does not submit any additional evidence on appeal.

While counsel asserts the applicant has shown his nationality through his asylum application, the applicant has applied for benefits under the Temporary Protected Status program which requires that the applicant submit evidence of his identity and nationality. Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.9 specifies the evidentiary requirements to establish identity and nationality. Under 8 C.F.R. § 244.9(a)(1), acceptable evidence in descending order of preference may consist of:

- (i) Passport;
- (ii) Birth certificate accompanied by photo identification; and/or
- (iii) Any national identity document from the alien's country of origin bearing photo and/or fingerprint.

As noted by the director, the applicant has not submitted evidence to establish his nationality and identity. It is noted that the applicant furnished a copy of a birth certificate (in Spanish) with an English translation which is questionable. The birth certificate shows his date of birth as August 15, 1974; however, on his Form I-821, Application for Temporary Protected Status, on his Form I-765, Application for Employment Authorization, and on his Form I-589, Application for Asylum and Withholding of Deportation, the applicant indicated that his date of birth was August 9, 1973. Furthermore, the applicant claimed on both the Form I-821 and Form I-765 that he was born in Sesoni, San Miguel, El Salvador, while the English translation of the birth certificate states the place of birth as Canton Minitas, El Salvador. It is the applicant's responsibility to address discrepancies in his statements and in his supporting documentation. 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 date and place of birth in the record. Therefore, the applicant has failed to establish his nationality and identity. In addition, he has not submitted a photo

identification or a national identity document from his country bearing a photograph and/or/fingerprint. Therefore, the application must be denied for these reasons.

It is also noted that the applicant's Federal Bureau of Investigation (FBI) results report, completed in connection with his TPS application, reflects an arrest for the applicant. Specifically, the report indicates that on February 22, 1998, the applicant was arrested by the Reedley Police Department, Reedley California, and charged with, Charge 1: "FALSE ID TO SPECIFIC PO S." The final court disposition of the arrest is not in the record of proceeding. CIS must address this arrest and any conviction in any future proceedings.

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.