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U.S. Citizenship  
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FILE: [REDACTED]  
[LIN 03 275 50091]

Office: NEBRASKA SERVICE CENTER

Date: AUG 09 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 denied by the Director, Nebraska Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The applicant is stated to be 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 he was eligible for late registration. The director also found that the applicant had failed to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite periods. The applicant also failed to submit a copy of his photo identification.

On appeal, the applicant submits a statement in support of his claim of eligibility for TPS.

The record reveals that the applicant filed his initial application [LIN 02 293 50227] with the Immigration and Naturalization Service, now Citizenship and Immigration Services (CIS), on October 9, 2002, after the initial registration period had closed. That application was denied on May 30, 2003, for failure to establish his eligibility for TPS late registration. The director also determined that the applicant failed to establish that he entered the United States prior to February 13, 2001, had continuously resided in the United States since February 13, 2001, and had been continuously physically present in the United States since March 9, 2001.

The applicant filed a subsequent Form I-821, Application for Temporary Protected Status, which is now before the AAO on appeal.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an applicant is eligible for TPS 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 under § 244.3;
- (e) is not ineligible under § 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.

(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 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.

The phrase *brief, casual, and innocent absence*, as defined in 8 C.F.R. § 244.1, 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 in the United States since March 9, 2001. 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. The record reveals that the applicant filed his application with Citizenship and Immigration Services (CIS), on September 15, 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 or her own statements. 8 C.F.R. § 244.9(b).

On October 15, 2003, the applicant was requested to submit evidence establishing his eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2). The applicant was also requested to submit evidence establishing his date of entry to the United States as of February 13, 2001, his continuous residence in the United States since February 13, 2001, and his continuous physical presence in the United States since March 9, 2001. The applicant was also requested to submit a copy of current photo identification. In response, the applicant submit some evidence in an attempt to establish his date of entry to the United States as of February 13, 2001, his continuous residence in the United States since February 13, 2001, and his continuous physical presence in the United States since March 9, 2001. The applicant also submitted a copy of his El Salvadoran birth certificate and personal identification card; however, the applicant did not submit any evidence to establish his eligibility for TPS late registration. The director denied the application on December 30, 2003, because the applicant failed to establish his eligibility for TPS late registration. The director also denied the application because the applicant failed to establish his continuous residence and continuous physical presence in the United States during the requisite time periods for El Salvadoran TPS.

The applicant filed an appeal which was received by the NSC on February 3, 2004. Since the appeal was untimely filed, the director treated the appeal as a motion to reopen, pursuant to 8 C.F.R. § 103.3(a)(1)(v)(B)(2), and rendered a decision on the merits of the case. After a complete review of the record of proceedings, including the motion, the director determined that the applicant had failed to establish his eligibility for TPS late registration. The director also found that the applicant had failed to establish his continuous residence and continuous physical presence in the United States during the requisite time periods. The director also noted that the evidence provided by the applicant contained gaps in time during the qualifying time period of El Salvadoran TPS. The director, therefore, affirmed his previous decision and denied the application on February 24, 2004.

On March 26, 2004, the applicant filed an appeal which is now before the AAO. On appeal, the applicant submits the following documentation: copies of his El Salvadoran birth certificate and personal identification card; a copy of his classroom assignment for an English class dated February 27; a copy of his Applicant Information Worksheet dated December 26, 2002; copies of a generic apartment leases dated February 1, 1999,

and April 1, 2001; a copy of a letter dated October 7, 1997, from [REDACTED] MD; a copy of a medical release dated May 20, 2000; copies of a health history dated April 24, 2000, from the West Side Health Center; a copy of a certificate of group health insurance from Alcoa dated June 11, 2002; copies of his health insurance cards from Blue Cross Blue Shield; copies of a letter from United Concordia dated January 19, 2002; copies of three United States Postal Service Customer's Receipts dated April 2, 2001 and August 31, 2002; copies of ten money transfer receipts from [REDACTED] dated from April 25, 2003 to November 3, 2003; copies of earnings statements dated December 6, 1995, from La Canasta of Minnesota, Inc. bearing the name of [REDACTED] [REDACTED] copies of Form W-2, Wage and Earnings Statements, for the year 1996 reflecting the name of [REDACTED] (SSN [REDACTED] copies of earnings statements dated February 22, 2001, March 1, 2001, March 8, 2001, and March 15, 2001, from Ivex Packaging Corporation, bearing the name of [REDACTED] [REDACTED]; copies of earnings statements dated April 13, 2001 and May 11, 2001, from Spectrum Temporary Help, Inc., bearing the name of [REDACTED] copies of his earnings statements from Northland Temporaries, Inc. dated June 20, 2001 and July 11, 2001; copies of earnings statements from Applied Staffing, Inc. dated August 19, 2001, September 16, 2001, and October 7, 2001; copies of twelve earnings statements from Alcoa dated January 17, 2002 through December 19, 2002; copies of six earnings statements from Excel Staffing Service; copies of three earnings statements from Spectrum Temporary Help, Inc. dated July 11, 2003, August 15, 2003, and September 12, 2003; a copy of a letter dated August 30, 2002, from Ms. [REDACTED] who stated that she has known the applicant since 1994; a letter dated September 22, 2002, from Mr. [REDACTED] who stated that he has known the applicant all of his life; a copy of a letter dated August 25, 2002, from Ms. [REDACTED] who stated that she has known the applicant since 1995; a copy of a letter dated September 25, 2002, from Mr. [REDACTED] who stated that the applicant is his former brother-in-law and was married to his sister for five years; and a copy of a letter dated August 3, 2002, from Ms. [REDACTED] who stated that she has known the applicant for about 10 years.

The first issue in this proceeding is whether the applicant is eligible for late registration.

The record of proceedings confirms that the applicant filed his application on September 15, 2003, after the initial registration period from March 9, 2001 through September 9, 2002, had closed. To qualify for late registration, the applicant must provide evidence that during the initial registration period, he or she was either in a valid immigration status, had an application pending for relief from removal, was a parolee, or was the spouse or 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). The record of proceedings does not contain any evidence to establish that the applicant has met any of the criteria for late registration described in 8 C.F.R. § 244.2(f)(2). Consequently, the director's conclusion that the applicant had failed to establish his eligibility for late registration will be affirmed.

The second issue in this proceeding is whether the applicant has established his continuous residence in the United States since February 13, 2001, and his continuous physical presence in the United States since March 9, 2001.

The applicant submits, on appeal, copies of earnings statements and Form W-2's bearing the name of [REDACTED] [REDACTED]. While the applicant stated on his TPS application that he had used the name [REDACTED] the applicant failed to provide any credible evidence to establish the legal use of his claimed name of [REDACTED]

Evidence of the use of two names may include, but is not limited to, a marriage certificate or court document registered with the proper civil authorities reflecting a name change for that individual. A review of the record of proceedings reflects that the applicant submitted copies of his birth certificate and his El Salvadoran birth certificate bearing the name of "Mr. [REDACTED]". As such, only the name of "Mr. [REDACTED]" will be considered in these proceedings. It is also noted that the Social Security numbers for Mr. [REDACTED] and the applicant are not the same as well.

The copies of the two apartment lease agreements are generic and are not notarized or witnessed; and thus, have little or no probative or creditable value. The copies of the letter from Dr. [REDACTED] the Release of Medical Records, and the medical health history pre-date the requisite time periods for continuous residence and continuous physical presence in the United States. The copies of money transfer receipts from [REDACTED] and the United States Postal Service Customer's receipts post-date the beginning of the requisite time periods for continuous residence and continuous physical presence in the United States. It is noted that the United States Postal Service Customer's Receipt bearing the date of April 2, 2001, appears to be altered as the original issuance date had been covered-over and an earlier date inserted in its place. Further, there is a notable difference in the type-font of the date as compared to the rest of the printed information on the receipt.

In addition, a review of the earnings statements reflects that the photocopied earnings statements from Northland Temporaries, Inc., Applied Staffing, Inc., Spectrum Temporary Help, Inc., and Excel Staffing Service appear to have been altered as the original employee name, employee number, employee Social Security number as well as the dates of employment seem to have been covered-over and the applicant's name, his Social Security number and earlier dates have been inserted in their place. Also, the copy of the Certificate of Group Health Plan Coverage from Alcoa appears to have been altered as the original date of the letter seems to have been covered-over and an earlier date inserted in its place. 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 apparent alterations of the evidence as noted above. Therefore, the reliability of the remaining evidence offered by the applicant is suspect and it must be concluded that the applicant has failed to satisfy 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 on these grounds will be affirmed.

The third issued in these proceedings concerns that applicant's failure to submit a copy of his photo identification. On appeal, the applicant provides sufficient evidence to establish his identity as Mr. [REDACTED].

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.