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FILE: [Redacted] Office: CALIFORNIA SERVICE CENTER Date: AUG 31 2005
[WAC 03 106 53899]

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
Robert P. Wiemann, Director
Administrative Appeals Office

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

The applicant claims 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 his eligibility for late registration. The director also denied the application because the applicant failed to establish continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States since March 9, 2001. Finally, the director denied the application because the applicant failed to establish his identity and nationality.

On appeal, the applicant submits a statement and additional evidence.

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 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 § 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. On July 9, 2002, the Attorney General announced an extension of the TPS designation until September 9, 2003. Subsequent extensions of the TPS designation have been granted, with the latest granted until September 9, 2006, upon the applicant's re-registration during the requisite time period.

The initial registration period for Salvadorans was from March 9, 2001 to September 9, 2002. The record indicates that the applicant filed his TPS application with Citizenship and Immigration Services (CIS) on February 18, 2003.

The burden of proof is upon the applicant to establish that he 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 burden of proof the applicant must provide supporting documentary evidence of eligibility apart from his own statements. 8 C.F.R. § 244.9(b).

The first issue in this proceeding is whether the applicant has submitted sufficient evidence to establish his eligibility for late initial registration.

The record of proceedings confirms that the applicant filed his application after the initial registration period had closed. 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 or child of an alien currently eligible to be a TPS registrant, and he 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 applicant initially submitted a "fill-in-the-blank" letter from [REDACTED] CIS registration number [REDACTED] requesting to "include the name of my husband as my dependent on my TPS application." The applicant also submitted a photocopy of a Salvadoran marriage certificate with English translation indicating that the applicant and [REDACTED] were married [REDACTED] El Salvador, on July 19, 1999.

On December 24, 2003, the applicant was requested to submit evidence establishing his eligibility for late initial registration. The applicant was also requested to submit evidence of identity and nationality and evidence to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite periods. The record does not contain a response from the applicant.

The director determined that the applicant had not established his eligibility for late initial registration and denied the application on March 11, 2004.

On appeal, the applicant states that he qualifies for late registration because his wife is a TPS registrant. The applicant further states that he provided a copy of his marriage certificate and a letter from his wife with his TPS application.

Pursuant to 8 C.F.R. § 103.2(b)(3), any document containing foreign language submitted to CIS must be accompanied by a full English language translation that the translator has certified as complete and accurate, and a certification that he or she is competent to translate from the foreign language into English.

The English translation of the applicant's marriage certificate has not been signed by the translator certifying that the translation is accurate and complete or certifying that the translator is competent to translate from Spanish to English. The translator's name does not even appear on the English translation. Therefore, the translation of the applicant's marriage certificate will not be accepted as a valid translation. Since the translation cannot be accepted as a valid translation, the Spanish language document itself cannot be accepted without proper English translation. Furthermore, the applicant has not submitted any evidence to establish that [REDACTED] has been granted TPS.

In view of the foregoing, it is concluded that the applicant has not submitted sufficient evidence to establish that he was the spouse of an alien who was currently eligible to be a TPS registrant during the initial registration period for Salvadorans. The applicant has not submitted any evidence to establish that he has met any of the other criteria for late registration described in 8 C.F.R. § 244.2(f)(2). Consequently, the director's decision to deny the application for temporary protected status on this basis will be affirmed.

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

As previously stated, the applicant was requested on December 24, 2003, to submit additional evidence to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite periods. The record does not contain a response from the applicant.

The director determined that the applicant had not established continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States since March 9, 2001, and denied the application on March 11, 2004.

On appeal, the applicant submits the following evidence:

1. photocopies of ADP pay statements from [REDACTED] Los Angeles, California, dated January 12, 2001; February 16, 2001; March 2, 2001; March 16, 2001; May 4, 2001; June 8, 2001; June 15, 2001; and, July 20, 2001;
2. photocopies of pay statements from [REDACTED] Oxnard, California, dated: April 24, 2002; May 22, 2002; January 17, 2003; September 16, 2003; September 30, 2003; October 8, 2003; and, October 22, 2003.

All of the pay statements listed above appear to have been altered. The original employee's name and social security number appear to have been eradicated and the applicant's name and social security number substituted. 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 visa petition. Further, it is incumbent on 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. (Comm. 1988).

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 on these grounds will also be affirmed.

The third issue in this proceeding is whether the applicant has submitted sufficient evidence to establish his identity and nationality.

Each application must be accompanied by evidence of the applicant's identity and nationality. Acceptable evidence in descending order of preference may consist of the alien's passport, a birth certificate accompanied by photo identification, and/or any national identity document from the alien's country of origin bearing photo and/or fingerprint. 8 C.F.R. § 244.9(a)(1).

The English translation of the applicant's birth certificate has not been signed by the translator certifying that the translation is accurate and complete or that the translator is competent to translate from Spanish to English as set forth at 8 C.F.R. § 103.2(b)(3). The translator's name does not even appear on the English translation. Further, the applicant has not provided an official Salvadoran photo identification document.

It is concluded that the applicant has not submitted sufficient credible evidence to establish his nationality and identity. Therefore, the application also must be denied for this reason.

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.