



U.S. Citizenship
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FILE: [REDACTED]
[EAC 02 149 50617]

Office: VERMONT SERVICE CENTER

Date: JUL 12 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, Vermont Service Center, 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 determined the applicant failed to establish that: (1) he had continuously resided in the United States since February 13, 2001; and, (2) had been continuously physically present in the United States since March 9, 2001.

On appeal, the applicant submits a letter and additional documentation.

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 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. The initial registration period for Salvadorans was from March 9, 2001, through September 9, 2002. The record reveals that the applicant filed his initial Form I-821, Application for Temporary Protected Status, with the Immigration and Naturalization Service (INS), now Citizenship and Immigration Services (CIS), on March 25, 2002.

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

In support of his initial application, the applicant submitted:

1. A photocopy of an extract of his birth certificate, with English translation, issued in El Salvador on May 21, 2001; and,
2. An affidavit, dated March 21, 2002, stating that he came to the United States on or about December 23, 2000;
3. A letter, dated March 16, 2002, from his uncle, [REDACTED] stating the applicant came to the United States on December 23, 2000; and,
4. A letter, dated March 16, 2002, from a friend, [REDACTED] stating that the applicant came to the United States on or about December 23, 2000, and that he resides at [REDACTED]

On November 8, 2002, the applicant was requested to submit evidence to establish his qualifying continuous residence in the United States since February 13, 2001. The applicant failed to respond to the request.

On June 17, 2003, the applicant was again requested to submit evidence to establish his eligibility for TPS. Specifically, the applicant was requested to submit evidence to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite time periods. In response, the applicant submitted:

5. An affidavit, dated July 15, 2003, stating that he had entered the United States in or about 1996, and that he resides at [REDACTED]
6. A lease agreement for a room at [REDACTED], dated January 1, 2001, for the period January 1, 2001 through January 31, 2002. The agreement is signed by [REDACTED] owner, and the applicant. The date of possession of the room is noted as March 1, 2002 through February 28, 2002;
7. A lease agreement for a room at [REDACTED], dated January 1, 2002, for the period January 1, 2001 through January 31, 2003. The agreement is signed by [REDACTED] owner, and the applicant. The date of possession of the room is noted as March 1, 2002 through February 28, 2003;
8. A letter from [REDACTED] dated July 14, 2003, stating that the applicant had been renting a room in his home since January 2001. Mr. [REDACTED] notes that the applicant's address is [REDACTED]
9. Photocopies of earnings statements from [REDACTED], for the one-week pay-periods ending February 3, 2002; March 10, 2002; April 7, 2002; May 19, 2002; June 15, 2002; and, July 14, 2002. The applicant's social security number is noted as [REDACTED] his filing status as married, and number of exemptions as three;
10. Photocopies of earnings statements from [REDACTED], for the one-week pay-periods ending September 1, 2002; October 6, 2002; November 17, 2002; December 15, 2002; February 2, 2003; March 9, 2003; and May 25, 2003. The applicant's social security number is noted as [REDACTED] his filing status as single, and number of exemptions as two;

11. Photocopies of [REDACTED] Laurel, Maryland, account statements dated October 8, 2002; December 9, 2002; March 10, 2003; and June 9, 2003. The applicant's address is noted as 1 Monitor Court, Olney, Maryland;
12. Photocopies of Western Union money transfers, dated January 26, 2003, and June 4, 2003; and,
13. A photocopy of a payroll pre-payment edit list from [REDACTED], dated July 9, 2003.

The director determined that the documentation provided was not sufficient to establish the applicant's qualifying continuous residence and continuous physical presence in the United States during the requisite time periods. The director noted that there were inconsistencies in the lease agreements, and that the earnings statements were dated 2002 and later. The director denied the application on August 8, 2003.

On appeal, the applicant resubmits photocopies of Nos. 2, 3, and 4, above. He also submits the following additional documentation:

14. A photocopy of his State of Maryland identification card, issued on June 14, 2003;
15. Another letter from his uncle, [REDACTED], dated September 4, 2003, explaining that the applicant lived with him at [REDACTED] from December 23, 2000, to May 2002; and at [REDACTED] as of May 2002; and,
16. A letter from a friend, [REDACTED], dated May 10, 2003, stating that the applicant has been in the United States since December 2000, and that he had moved to [REDACTED] in or about May 2002.

There are discrepancies in the record pertaining to much of the documentation provided by the applicant. On his initial Form I-821, the applicant claimed to have entered the United States on December 23, 2000. The extract of his birth certificate (No. 1, above), however, was issued in El Salvador almost five months after his claimed date of entry. Nos. 2, 3, and 4 also indicate that the applicant entered the United States on or about December 23, 2000. In No. 5, however, the applicant states that he entered in or about 1996. At the time of filing his TPS application on March 25, 2002, the applicant also claimed that he was single, and did not have a social security number. No. 9, however, suggests that from February 3, 2002 (more than 1 month prior to filing his Form I-821), through July 14, 2002, the applicant was married and using social security number [REDACTED]. In contrast, No. 10 suggests that from September 1, 2002, through May 25, 2003, the applicant was single and using social security number [REDACTED].

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 not submitted any objective evidence to explain or justify the above-noted discrepancies.

It is also noted that Nos. 11, 12, 13, and 14 are dated well after the dates required to establish the applicant's qualifying continuous residence and continuous physical presence in the United States. Furthermore, the only documentation provided by the applicant in an attempt to establish his residence and physical presence as of the

required dates consists of two conflicting affidavits from the applicant (Nos. 2 and 5), two letters from acquaintances (Nos. 4 and 16), and lease agreements and statements provided by his uncle (Nos. 3, 6, 7, 8 and 15). Affidavits from the applicant, letters from acquaintances, and documentation provided by relatives are not, by themselves, persuasive evidence of residence or physical presence. Simply going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. See *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972).

It is concluded that the applicant has not submitted sufficient credible evidence to establish his qualifying continuous residence in the United States since February 13, 2001, and continuous physical presence since March 9, 2001. He has, therefore, failed to establish that he has met the criteria described in 8 C.F.R. § 244.2(b) and (c). Consequently, the director's decision to deny the application for TPS on these grounds will also be affirmed.

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.