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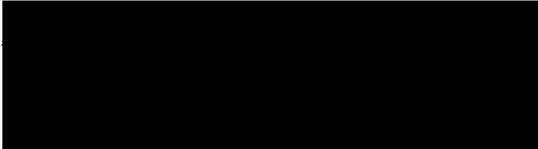
U.S. Department of Homeland Security
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U.S. Citizenship
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Services

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FILE: [REDACTED]
[EAC 02 276 50854]

Office: VERMONT SERVICE CENTER

Date:

JUN 24 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 denied the application because the applicant failed to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite time periods.

On appeal, the applicant submits a statement 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.

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. 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 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 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 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).

In support of his initial TPS application, filed on August 30, 2002, the applicant submitted:

1. A photocopy of the identification page from his El Salvadoran passport, issued in Manhattan, New York, New York, on August 23, 2002;
2. A photocopy of an extract of his El Salvadoran birth certificate, with English translation, issued in El Salvador on July 9, 2002;
3. A photocopy of an undated letter from [REDACTED] stating that he knows the applicant has been living in the United States since January 2001;
4. A photocopy of an unsigned MoneyGram International Money Transfer receipt dated August 13, 2002; and,

5. A photocopy of an undated letter from § [REDACTED] stating that he knows the applicant has been living in the United States since January 2001.

On May 22, 2003, the applicant was requested to submit evidence establishing his qualifying continuous residence and continuous physical presence in the United States during the requisite time periods. In response, the applicant submitted:

6. An unsigned "Certificate of Employment" letter, dated June 27, 2003, from Minaga, Inc., DBA Zimick Bros. Cleaning Service, Englewood, New Jersey, stating that the applicant had been employed by the company since 2001;
7. A letter, dated June 21, 2003, from [REDACTED] stating that the applicant has been living in the United States since 2001;
8. A letter, dated June 21, 2003, from [REDACTED] stating that the applicant has been living in the United States since 2001;
9. Photocopies of envelopes addressed to the applicant in New Jersey from Gigante Express, Miami, Florida, post-marked August 26, 2002; October 23, 2002; November 12, 2002; November 19, 2002; and, December 10, 2002;
10. Photocopies of receipts from Costamar Money Transfer, Elizabeth, New Jersey, dated December 16, 2002; and April 14, 2003; and,
11. Photocopies of receipts from Servicio Uniteller, Rochelle Park, New Jersey, dated January 13, 2003; and May 22, 2003.

The director determined that the applicant had not submitted sufficient evidence to establish his eligibility for TPS and denied the application on August 11, 2003.

On appeal, the applicant submits a letter, dated September 5, 2003, stating that he since his arrival in the United States on January 10, 2001, he has never visited the hospital, obtained health insurance, owned a car, or opened a bank account. In support of his appeal, the applicant submits the following additional documentation:

12. A "Certificate of Employment" letter, dated August 19, 2003, from [REDACTED] Englewood, New Jersey, stating that the applicant has worked for the company since 2001;
13. A letter, dated August 25, 2003, from [REDACTED] stating that the applicant worked for Estrada Construction from mid January 2001 until the end of April 2002;
14. A letter, dated August 26, 2003, from [REDACTED] stating that the applicant came to the United States in January 2001;
15. A letter, dated August 27, 2003, from [REDACTED] stating that the applicant has been a regular customer at his restaurant, [REDACTED] since February 2001;
16. Photocopies of Gigante Express receipts dated March 15, 2001; April 11, 2001; June 10, 2001; and July 10, 2001;
17. Photocopies of rent receipts dated February 2, 2001; March 3, 2001; April 3, 2001; and, May 3, 2001; and,

18. A photocopy of an appointment notice indicating that the applicant had an appointment on Friday, February 5, 2001, at the Community Health Center, North Bergen, New Jersey.

The applicant claims to have continuously lived in the United States since January 10, 2001. It is reasonable to expect that he would have a variety of credible, contemporaneous evidence to support this claim. Letters from acquaintances (Nos. 3, 5, 7, 8, 14, and 15, above) are not, by themselves persuasive evidence of continuous residence and continuous physical presence. Nos. 1, 4, 9, 10, and 11, are dated well beyond the dates required to establish qualifying continuous residence and continuous physical presence.

The employment letters (Nos. 6, 12, and 13, above) have little evidentiary weight or probative value as they do not provide basic information that is expressly required by 8 C.F.R. § 244.9(a)(2)(i). Specifically, they are not in the form of affidavits and do not provide the address where the applicant resided during the period of his employment, the exact period(s) of employment, and the period(s) of layoff (if any). Furthermore, they are not supported by any corroborative documentation, such as pay stubs and company employment records.

It is noted that there are discrepancies encountered in the evidence provided by the applicant. Although the applicant claims to have lived continuously in the United States since January 2001, the extract of his birth certificate (No. 2, above) shows that it was issued in El Salvador in July 2002. Furthermore, No. 18 indicates that the applicant had an appointment on Friday, February 5, 2001; however, February 5, 2001 was a Monday, not a Friday. These discrepancies have not been explained and call into question the applicant's ability to document the requirements under the statute and regulations. Doubt cast on any aspect of the evidence as submitted may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. Further, it is incumbent on the applicant to resolve any inconsistencies in the record by independent objective evidence; any 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).

Finally, the receipts from Gigante Express (No. 16, above) cover a relatively limited time period, March 15, 2001 to July 10, 2001. The only remaining document provided by the applicant is contained in No. 17 – generic, hand-written rent-receipt dated February 1, 2001.

Based on a review of the record, it is concluded 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 will 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.