

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. A3042
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

PUBLIC COPY



ML

FILE:

[EAC 03 077 51274]

Office: VERMONT SERVICE CENTER

Date: MAY 11 2005

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: 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 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 that he was eligible for late registration.

On appeal, the applicant provides additional documentation.

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 designated by the Attorney General 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 section 244.3;
- (e) Is not ineligible under 8 C.F.R. § 244.4; and
- (f)
 - (1) Registers for TPS 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 issue raised by the director to be addressed in this proceeding is whether the applicant is eligible for late registration.

Persons applying for TPS offered to El Salvadorans must demonstrate entry on or prior to February 13, 2001, that they have continuously resided in the United States since February 13, 2001, and that they have been continuously physically present 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. 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.

As stated in 8 C.F.R. § 244.1, "register" means "to properly file, with the director, a completed application with proper fee, for Temporary Protected Status during the registration period designated under section 244(b) of the Act."

The initial registration period for El Salvadorans was from March 9, 2001 through September 9, 2002. The record reflects that the applicant filed his application on November 2, 2002.

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 own statements. 8 C.F.R. § 244.9(b).

The record of proceeding confirms that the applicant filed his application for TPS on November 2, 2002, after the initial registration period had closed. To qualify for late registration, the applicant must provide evidence that during the initial registration period, he fell within the provisions described in 8 C.F.R. § 244.2(f)(2) (listed above). If the qualifying condition or application has expired or been terminated, the individual must file within a 60-day period immediately following the expiration or termination of the qualifying condition in order to be considered for late initial registration. *See* 8 C.F.R. § 244.2(g).

In a notice of intent to deny, dated March 14, 2003, the applicant was requested to submit evidence of his eligibility for late registration. The applicant was also requested to submit evidence of his continuous residence and his continuous physical presence in the United States during the requisite timeframes.

The director found that the evidence submitted, in response to the notice of intent to deny, "established a residence in the United States as of February 13, 2001, and that you had continuous presence in the United

States from March 9, 2001.” However, the director found that the applicant failed to provide evidence to establish that he is eligible for late registration. The director denied the application on May 7, 2003.

On appeal, the applicant submits: an undated letter from [REDACTED] of [REDACTED] and Sons in Plainfield, New Jersey, who states that the applicant “used [sic] to work in my business since 11/15/00 to this present time;” an “Affidavit of Witness” from [REDACTED] who states that he has known the applicant since January 1, 2002; an Affidavit of Witness from [REDACTED] who states that he has known the applicant since December 1, 2000; an Affidavit of Witness from [REDACTED] who states that he has known the applicant since July 11, 2000 to the present; an Affidavit of Witness from [REDACTED] who states that she has known the applicant since November 1, 2000; an Affidavit of Witness from [REDACTED] who states that she has known the applicant since November 1, to the present; an Affidavit of Witness from [REDACTED] who states that he has known the applicant since October 1, 2000 to the present; Western Union Money Transfer receipts for November 1, 2000, December 1, 2000, and May 17, 2003; receipts for \$200, dated December 1, 2000 and January 1, 2001; and, six envelopes addressed to the applicant of which four contain no stamps or postmarked dates, one contains a postmarked date of July 8, 2002, and one with an illegible postmarked date. It is noted that the applicant signed as the affiant on all the above-mentioned affidavits. 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, 591-92 (BIA 1988). 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. *Id.*, 582, 591.

No additional documentary evidence has been presented on appeal to establish that the applicant has met the requirements for late registration as described in 8 C.F.R. § 244.2(f)(2) and 8 C.F.R. § 244.2(g). Consequently, the director’s decision to deny the TPS application for this reason must be affirmed.

Beyond the decision of the director, the applicant has not provided sufficient evidence to demonstrate that he has been continuously residing in the United States since February 13, 2001, and that he has been continuously physically present in the United States since March 9, 2001. The aforementioned letter from [REDACTED] stating that the applicant has worked for [REDACTED] and Sons since November 15, 2000, has no pay records attached to support the statement. The Affidavits, without supporting documentary evidence such as bank statements, medical records, utility bills, and insurance records, are not sufficient for the 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). The applicant has failed to provide sufficient evidence to establish that he has met the criteria described in 8 C.F.R. § 244.2(b) and (c). Further, the applicant has not provided evidence to establish his identity. Therefore, the application must also be denied for these reasons.

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.