U.S. Department of Homeland Security
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Washington, DC 20529

U.S. Citizenship and Immigration Services

[redacted]

FILE: [redacted] Office: VERMONT SERVICE CENTER Date: [illegible]
[EAC 02 100 53282]

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.

for 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 he 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.

On appeal, the applicant submits additional documentation in support of his application.

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 TPS only if such alien establishes that he or she:

(a) Is a national of a 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 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.

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.

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. An extension of the TPS designation has been granted with validity until September 9, 2006, upon the applicant's re-registration during the requisite time period.

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 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 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).

Upon initial submission, the applicant submitted the following documentation.

1. A copy of his Republic of El Salvador passport issued on October 17, 1997 at the El Salvadorian Consulate in New York City.

2. Unnumbered rent receipts to the applicant from for $200 per month rental of dated November 1, 1999 and December 1, 1999. Rent receipts #770487 dated January 1, 2000, #770486 dated February 1, 2000 and #77485 dated March 1, 2000 to the applicant from for $200 per month rental of

On January 14, 2004, the applicant was requested to submit additional evidence establishing his residence since February 13, 2001, and physical presence since March 9, 2001, in the United States. The applicant responded to that request and furnished the following documentation:

3. A letter dated January 26, 2004 from president of a company named in Brookhaven, New York. states he has known the applicant since "mid-1999" and that the firm has employed him for the past two years.

4. A copy of a United States Postal Service postal money order dated March 10, 2001 to "I.N.S." for $175 from the applicant showing his address at

The director determined that the applicant had failed to submit sufficient evidence to establish his eligibility for TPS and denied the application on March 24, 2004. The following documents were submitted on appeal:

5. An affidavit dated April 2, 2004 from who states that he has known the applicant since he came to this country in October, 1996 and that, to the best of his knowledge has resided in the United States since that time.

6. An affidavit dated April 12, 2004 from who states he has known the applicant since his arrival in this country on or about October 1996.

The record shows that items such as height and birth date on the passport that the applicant forwarded for consideration (Number 1 above) have been altered. Also, the rent receipts submitted (Number 2) are not persuasive evidence of continuous residence or continuous physical presence. The three most recent rent receipts are numbered consecutively but they were not issued in that order as receipt #770487 was issued on January 1, 2000, #770486 was issued on February 1, 2000 and #77485 was issued on March 1, 2000. In addition, the employment letter from (Number 3) has little evidentiary weight or probative value as it does not provide basic information that is expressly required by 8 C.F.R. § 244.9(a)(2)(i). Specifically, the letter is not in affidavit form and is not signed and attested to by the employer under penalty of perjury. Additionally, does not provide the address where the applicant resided during the period of his employment. 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 visa petition. It is incumbent on the petitioner 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).

Affidavits from acquaintances or family members (Numbers 5 and 6 above) are not, by themselves, persuasive evidence of residence or physical presence. The applicant has not submitted any evidence to establish his continuous residence or continuous physical presence in the United States during the period since on or prior to February 13, 2001 until he filed his application on January 28, 2002. He has, thereby, 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 will be affirmed.

The application will be denied for the above stated reasons, with each considered as an independent and alternative basis for denial. 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.