



U.S. Citizenship
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Services

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FEB 23 2007

FILE:

[WAC 01 174 51874]
[WAC 05 253 70259]

OFFICE: California Service Center

DATE:

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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The applications were denied by the Director, California Service Center. They are now on appeal before the Administrative Appeals Office (AAO). The decisions of the director on both applications will be affirmed.

The applicant is a 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 record reveals that the applicant filed an initial Form I-821, Application for Temporary Protected Status [WAC 01 217 51940], on April 9, 2001. On October 9, 2003, the service center sent a Fingerprint Notification to the applicant advising him to appear at the Citizenship and Immigration Services (CIS) office in San Francisco, California, for fingerprinting on November 7, 2003. On March 22, 2004, the director issued the applicant a Notice of Denial Due to Abandonment, stating that because the applicant failed to appear for the scheduled fingerprinting or request a rescheduling of the appointment, the TPS application was deemed abandoned and denied in accordance with the regulation at 8 C.F.R. § 103.2(b)(13). After noting that a denial on the ground of abandonment cannot be appealed, the director advised the applicant that he could file a motion to reopen in accordance with 8 C.F.R. § 103.5. No such motion was filed by the applicant.

On June 10, 2005, the applicant filed another Form I-821 [WAC 05 253 70259], identifying it as an application for re-registration or renewal of TPS. On June 20, 2005, the service center issued a new Fingerprint Notification to the applicant advising him to appear at the CIS office in San Francisco on July 1, 2005. This time the applicant kept the appointment and the record shows that he was duly fingerprinted. On August 16, 2005, however, the director denied the application on the ground that the applicant's initial TPS application was denied, making him ineligible to re-register for TPS under 8 C.F.R. § 144.17(a).

The applicant filed an appeal on September 8, 2005, asserting that he never received the first Fingerprint Notification, issued in October 2003. The AAO notes that the applicant's address in 2005, when he filed his re-registration application, was not the same as the one he had at the time of his initial TPS application in 2001. Though the applicant states in his appeal that he "mailed my change of address on time," there is no evidence in the record that he informed the service center of an address change. The record does not indicate exactly when the applicant moved, though an Application for Employment Authorization (Form I-765) filed by the applicant on September 29, 2003 still identifies his address as [REDACTED] which is the address he used on his initial TPS application in 2001. The Fingerprint Notification which the applicant claims not to have received was mailed to that same address on October 9, 2003, just ten days after the applicant's Form I-765 was received. Thus, it appears that the applicant may not have moved before the first Fingerprint Notification was issued. In any event, there is no evidence that the applicant provided the service center any information about an address change until his re-registration application was filed in 2005.

Accordingly, there is no basis to conclude that the service center erroneously mailed the initial Fingerprint Notification to a wrong address, or that the director's decision to deny the initial TPS application on the ground of abandonment was faulty. The AAO concurs with the director's decision on the initial TPS application.

In an application for re-registration, a previous grant of TPS must have been afforded the applicant, as only those individuals who are granted TPS must register annually. In addition, the applicant must continue to

maintain the conditions of eligibility. *See* 8 C.F.R. § 244.17. In this case, the applicant has not previously been granted TPS. Therefore, he is not eligible to re-register for TPS. Consequently, the director's decision to deny the current re-registration application will be affirmed.

There is no indication that the applicant is attempting to file a late initial application for TPS instead of an annual re-registration. Moreover, there is no evidence in the file to suggest that the applicant is eligible for late registration for TPS under 8 C.F.R. § 244.2(f)(2).

Beyond the decision of the director, the AAO notes that there is insufficient evidence of the applicant's continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States since March 9, 2001, as required for applicants from El Salvador under 8 C.F.R. § 244.2(b) and (c). The regulation at 8 C.F.R. § 244.9(a)(2) lists the types of documentation that could establish an applicant's residence in the United States during the applicable time period. In the case at bar, there is no documentation in the record which establishes the applicant's continuous residence and physical presence in the United States from the requisite dates in February 2001 and March 2001.

The AAO notes that the applicant has submitted a photocopy of a purported ADP earnings statement, dated January 31, 2001, which identifies the applicant's address as [REDACTED]. This address does not appear anywhere else in the record, and conflicts with the address – [REDACTED] in San Francisco – which is identified as the applicant's address both beforehand (in papers relating to his deportation proceeding in 1996-97) and afterwards from the time of his initial TPS application in April 2001 through his Application for Employment Authorization in September 2003. Furthermore, the social security number appearing with the earnings statement is not the applicant's, as evidenced by the photocopied social security card in the record.

It is incumbent upon a petitioner to resolve any inconsistencies in the record by independent objective evidence. Attempts to explain or reconcile such inconsistencies will not suffice without competent evidence pointing to where the truth lies. *See Matter of Ho*, 19 I&N Dec. 582, 591-92, (BIA 1988). Moreover, doubt cast on any aspect of the petitioner's evidence reflects on the reliability of the petitioner's remaining evidence. *See id.*

With specific regard to TPS applications, the regulation at 8 C.F.R. § 244.9(b) provides that:

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.

The AAO determines that the applicant has failed to submit credible documentary evidence to satisfy his burden of proof that he meets the continuous U.S. residence and physical presence requirements for TPS applicants from El Salvador.

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 Temporary Protected Status, or 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.