



U.S. Citizenship
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FILE:



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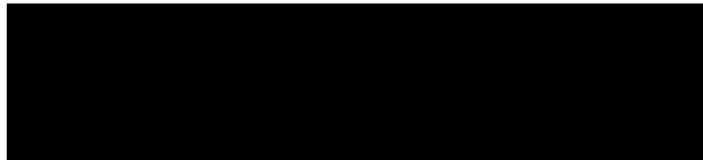
DATE:

JUN 27 2007

[EAC 01 165 54343]

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:



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, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Vermont Service Center. The director subsequently dismissed two motions to reopen the case. The case 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 record indicates that the applicant filed a TPS application during the initial registration period on April 2, 2001. On March 27, 2002, the applicant was advised that although he had been fingerprinted twice, both sets of fingerprints were rejected as unclassifiable by the Federal Bureau of Investigation (FBI). Therefore, in lieu of fingerprint clearance, the applicant was requested to submit a local police clearance certificate for each jurisdiction (city, town, county, or municipality) where he had resided for six months or more within the past three years. He was advised that if any record indicated he had been arrested, to submit the final court disposition of every charge against him. The record does not contain a response from the applicant; therefore, the director concluded that the applicant had abandoned his application and denied the application on April 2, 2003. The director advised the applicant that, while the decision could not be appealed, the applicant could file a motion to reopen.

On April 28, 2003, the applicant filed a motion to reopen the case. The applicant stated that he needed work authorization so that he could work legally in this country. He submitted evidence in an attempt to establish continuous residence and continuous physical presence in the United States during the requisite period.

On July 7, 2003, the director dismissed the motion, pursuant to 8 C.F.R. § 103.5(a)(4), because it did not meet the requirements of a motion to reopen as set forth in 8 C.F.R. § 103.5(a)(2).

On December 31, 2003, the applicant filed another motion to reopen the case. The applicant stated that he had changed his address, and requested that he be allowed a second opportunity to reopen his case because he has the requested information. He resubmitted evidence previously furnished and contained in the record.

On April 21, 2004, the director granted the motion; however, after reviewing the record of proceeding, including the motion, the director determined that the grounds of denial had not been overcome and affirmed her decision to deny the application.

The applicant filed an appeal on May 21, 2004. He submits a police clearance certificate from Washington, DC, and requested an extension of 60 days in which to submit a police clearance from the State of Maryland because the department did not have fingerprint forms. On June 10, 2004, the applicant submitted the police clearance from the State of Maryland. The applicant's counsel subsequently submitted a brief and resubmitted copies of the police clearance certificates. He stated that the applicant respectfully requests that his application be reconsidered because the applicant, through no fault of his own, was not able to transmit the previously missing and necessary police clearance certificate from the State of Maryland because the police station did not have fingerprint cards available.

While the record indicates that the FBI had twice rejected the applicant's prints as unclassifiable, the applicant subsequently was fingerprinted and the FBI fingerprint results reports dated April 6, 2005 and March 30, 2006, do not reflect a criminal record that would bar the applicant from receiving TPS under section 244(c)(2)(B)(i) of the Act and 8 C.F.R. § 244.4(a). However, the record of proceeding contains insufficient evidence to establish that the applicant has met the criteria for continuous residence in the United States since February 13, 2001, and continuous physical presence since March 9, 2001, as described in 8 C.F.R. § 244.2(b) and (c).

The applicant indicated on his TPS application that his date of entry into the United States was November 30, 2000. In support of his initial application, the applicant submitted copies of pay statements from J.B. Painting Co., Inc. (no address listed for this company) dated November 16, 2000; November 22, 2000; November 29, 2000; December 6, 2000; December 13, 2000; and December 27, 2000. Based on the applicant's claim of entry into the United States on November 30, 2000, after the date of his alleged employment with J.B. Painting, these documents cannot be considered credible. 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 sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. 8 C.F.R. § 244.9(b). These documents are not considered credible and greatly reduce the credibility of other documents contained in the record of proceeding.

Accordingly, the applicant has failed to establish that he has met the criteria for continuous residence in the United States since February 13, 2001, and continuous physical presence since March 9, 2001, as described in 8 C.F.R. § 244.2(b) and (c). Therefore, the TPS application will be denied for these reasons.

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 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.