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U.S. Citizenship  
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FILE: [REDACTED]  
[LIN 02 260 53327]

Office: Nebraska Service Center

Date: **MAY 31 2007**

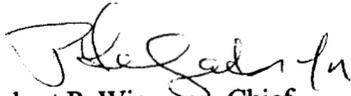
IN RE: Applicant: [REDACTED]

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, Chief  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, Nebraska 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 his qualifying continuous residence and continuous physical presence in the United States during the requisite periods. The applicant also failed to submit a foreign language document of his birth certificate.

On appeal, the applicant asserts his claim of eligibility for TPS and submits some evidence in an attempt to support his claim.

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.

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 entry on or prior to February 13, 2001, continuous residence in the United States since February 13, 2001, and continuous physical presence 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. Subsequent extensions of the TPS designation has been granted by the Secretary of the Department of Homeland Security, with validity until September 9, 2007, 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).

On September 16, 2002, the director requested the applicant to submit additional evidence to establish his qualifying continuous residence and continuous physical presence in the United States. The applicant was also requested to submit a copy of his birth certificate or passport. In response, the applicant submitted an English translation of his birth certificate; a letter dated August 29, 2002, from [REDACTED] stating that the applicant had been living in her house since December 1, 2000; and, a copy of a Western Union money transfer receipt dated February 7, 2001.

The director determined that the applicant did not establish his qualifying continuous residence and continuous physical presence in the United States. The director also stated that the applicant failed to submit the original foreign language birth certificate, and therefore, denied the application January 18, 2003.

On appeal, the applicant, states that he had previously submitted the requested documentation. The applicant also provides the following documentation along with his appeal:

1. Copies of his Employment Authorization Document (EAD) and Social Security card;

2. A letter dated January 28, 2003, from [REDACTED] stating that she has known the [REDACTED] since February 2001;
3. An English translation of his birth certificate;
4. A copy of a Western Union money transfer receipt dated "02/07/01"; and,
5. A copy of a transcript dated February 7, 2003, from Colorado Mountain College.

The statements provided by the [REDACTED] regarding the applicant's claimed residence in the United States are not supported by credible corroborative evidence during the beginning of the requisite time periods for continuous residence and continuous physical presence in the United States. In addition, the college transcript post-dates the beginning of the qualifying periods as well.

It is also noted that the Western Union money transfer receipt as detailed in No. 4, above, appears to have been altered as the calendar month has been replaced. In addition, the record contains two other Western Union money transfer receipts submitted by the applicant which appear to have been altered where the name and signature have been covered over and the applicant's name and signature placed on the document. 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 applicant has failed to submit any objective evidence to explain or justify the discrepancies above. Therefore, the reliability of the remaining evidence offered by the applicant is suspect.

The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. 8 C.F.R. § 244.9(b). It is determined 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). Consequently, the director's decision to deny the application for temporary protected status for these reasons will be affirmed.

Furthermore, a review of the record of proceedings of the applicant's brother, [REDACTED] indicates that he was born on April 22, 1977, just two months prior to the birth of the applicant on June 3, 1977, both by the same mother [REDACTED]. Although the record of proceedings contains an original foreign language document for the applicant, due to the inconsistencies, the director's decision to deny the application for temporary protected status for failure to submit sufficient credible evidence to establish his nationality/identity will also 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 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 met this burden.

**ORDER:** The appeal is dismissed.