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U.S. Citizenship
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FILE:



Office: CALIFORNIA SERVICE CENTER

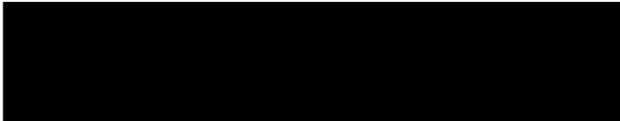
Date:

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[WAC 05 312 70260]

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, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, California Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The applicant claims to be 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.

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

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 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 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 initial registration period for Salvadorans was from March 9, 2001, through September 9, 2002. The record reveals that the applicant filed his application with Citizenship and Immigration Services (CIS) on August 8, 2005.

To qualify for late registration, the applicant must provide evidence that during the initial registration period he fell within at least one of the provisions described in 8 C.F.R. § 244.2(f)(2) above.

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 or her own statements. 8 C.F.R. § 244.9(b).

On July 29, 2006, the director requested the applicant to submit evidence to establish his eligibility for TPS late registration. The director also requested the applicant to submit evidence to establish his continuous residence since February 13, 2001, and his continuous physical presence in the United States since March 9, 2001. In addition, the applicant was requested to submit evidence to establish his nationality/identity.

In response, the applicant submitted the following copies of documentation: an El Salvadoran Cedula issued on August 5, 2004, in El Salvador; earnings statements from Survival, dated "01/11/01" to "07/04/01;" earnings statements from SKB Corporation, dated "11/06/01," "01/21/02," and "02/26/02;" and, earnings statements from Adecco dated April 4, 2002, April 18, 2002, May 9, 2002, June 27, 2002, and August 8, 2002.

The director determined that the applicant did not establish his qualifying continuous residence and continuous physical presence in the United States; and therefore, the director denied the application on September 14, 2006.

On appeal, the applicant asserts his eligibility for TPS and provides resubmits photocopies of previously submitted documentation as well as a certificate in Spanish.

The copies of earnings statements submitted by the applicant appear to be altered as the original employee name, as well as Social Security number, seem to have been covered-over and the applicant's name and his Social Security number inserted in their place. In addition, it appears that the dates on the earnings statements from Survival and SKB Corporation have been altered. In particular, the earning statements from SKB Corporation reflect pay period and time card dates that are dissimilar for the same pay period. Furthermore, the Survival earnings statement covering the period "01/11/01" to "01/17/01" reflects a year-to-date earnings of \$1, 118.68. It does not seem reasonable that the applicant could earn that amount of money in only one week's time at a pay

rate of \$4.35 per hour. 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). Therefore, the reliability of the remaining evidence offered by the applicant is suspect and it must be concluded that the applicant has failed to satisfy the residence and physical presence requirements described in 8 C.F.R. §§ 244.2(b) and (c). Consequently, the director's decision to deny the application for temporary protected status will be affirmed.

Beyond the decision of the director, the applicant has also failed to establish his eligibility for TPS late registration. The applicant claimed on his TPS application that he was married to [REDACTED] (460 316) on May 25, 1993, in El Salvador. The applicant also provided copies of his marriage certificate, copies of [REDACTED] and her Social Security Card.

A review of Ms. Guzman-Lovos' record reflects that she claimed "single" on all of her applications for TPS and employment authorization. The applicant has also failed to submit any objective evidence to explain or justify this discrepancy. The applicant has failed to submit sufficient credible evidence that he qualifies for late registration described in 8 C.F.R. § 244.2(f)(2). Consequently, the director's conclusion that the applicant had failed to establish his eligibility for TPS late registration will be affirmed.

The record of proceedings also reveals that the applicant was apprehended by United States Border Patrol on [REDACTED] at that time, the applicant stated to the United States Border Patrol that he was a citizen of Guatemala. The record also reveals that the applicant was removed from the United States on June 7, 1987, and returned to Guatemala. Therefore, it is concluded that the applicant has also failed to submit sufficient credible evidence to establish his nationality and identity. Consequently, the application must also be denied for this reason.

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.