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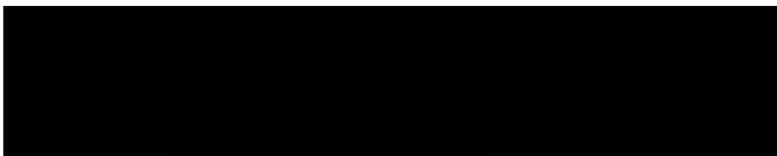
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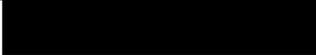
U.S. Citizenship
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Services

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FILE:



Office: NEBRASKA SERVICE CENTER

Date: FEB 26 2008

[WAC 01 172 52323]

IN RE:

Applicant:



APPLICATION:

Application for Temporary Protected Status under Section 244 of the Immigration
and Nationality Act (the 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 Director, Nebraska Service Center (NSC), denied the application. The matter 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 seeks 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.

On appeal, the applicant asserts that he cannot establish his exact date of entry because he entered without inspection and submits a brief and additional documentation.

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 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.

- (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 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 Salvadorans must demonstrate continuous residence in the United States since February 13, 2001, and continuous physical presence since March 9, 2001.

The burden of proof is on 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).

The record reflects that the applicant filed his initial TPS application (WAC 01 172 52323) on March 30, 2001 – during the initial registration period for Salvadorans. In support of his application, the applicant submitted photocopies of the following: his birth certificate, with translation; a handwritten, unnotarized letter from [REDACTED]; a notarized affidavit from [REDACTED]; and, two money orders made out to [REDACTED] dated March 21, 2001.

On October 8, 2003, the director requested that the applicant submit evidence of his date of entry and his qualifying continuous residence and continuous physical presence. In response, the applicant submitted photocopies of the following documents: the previously submitted evidence mentioned above; an unidentified, handwritten receipt for \$200; a receipt notice for an Employment Authorization Document (EAD), issued based on a pending asylum application, dated July 1, 2002; his Social Security card; his EAD, issued based on his pending TPS application; his Colorado driver's license issued on April 26, 2002; his marriage certificate, indicating he was married in Morgan County, Colorado, on March 15, 2002; the receipt notice for a Form I-130, Family Visa Petition, dated June 5, 2002; the approval notice for the Form I-130; and, the receipt notice for the applicant's TPS application.

On December 22, 2003, the director denied the application, finding the documents submitted by the applicant insufficient to establish his date of entry before February 13, 2001, and insufficient to establish his qualifying continuous residence and continuous physical presence.

On appeal, the applicant asserts that he does not have proof of his date of entry because he entered without inspection and that he is submitting the only evidence he has of his residence and physical presence: the previously submitted letter from [REDACTED] and affidavit from his sister, [REDACTED].

The documentation submitted fails to establish the applicant's qualifying residence and continuous physical presence. The letter from [REDACTED] can be given little evidentiary weight and has little probative value, as it does not provide basic information that is expressly required by 8 C.F.R. § 244.9(a)(2). The letter is not sworn to, is not notarized, does not provide the writer's address, date and place of birth, or full information and/or complete details relating to the applicant's continuous residence and continuous physical presence in the United States. The affidavit from the applicant's sister, [REDACTED], also can be given little weight and is also of little probative value as it does not provide the affiant's date and place of birth, relationship to the applicant, or full information and/or complete details relating to the applicant's continuous residence and continuous physical presence, as required by 8 C.F.R. § 244.9(a)(2)(vi).

The earliest evidence of the applicant's residence and physical presence is the two money orders dated March 21, 2001. The applicant claims to have lived in the United States since September 2000. It is reasonable to expect that he would have contemporaneous evidence other than these money orders to support the letter and affidavit he submitted; however, no such evidence has been provided. The applicant has not submitted sufficient credible evidence to establish his qualifying continuous residence and continuous physical presence in the United States. He has, therefore, failed to establish that he has met the criteria described in 8 C.F.R. § 244.2(b) and (c). Accordingly, the director's decision to deny the application on these grounds will be affirmed.

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 not met this burden.

ORDER: The appeal is dismissed.