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U.S. Citizenship  
and Immigration  
Services

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FILE:

[EAC 07 024 70443]

Office: Vermont Service Center

Date: NOV 21 2008

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 "John F. Grisson".

John F. Grisson, Acting Chief  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, Vermont 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 he had: 1) continuously resided in the United States since February 13, 2001; and, 2) been continuously physically present in the United States since March 9, 2001.

On appeal, the applicant states that he came to the United States in 2000, when he was only 11 years of age. He further explains that his date of entry as stated on his TPS application as October 3, 1990, was incorrect; instead, it was his mother who entered the United States in 1990. The applicant also emphasizes that he has been granted employment authorization since 2001.

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 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.

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 continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States since March 9, 2001. The designation of TPS for El Salvadorans has been extended several times, with the latest extension valid until March 9, 2009, 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 February 5, 2007, the applicant was requested to submit evidence establishing his continuous residence since February 13, 2001 and continuous physical presence since March 9, 2001, in the United States as well as his date of entry into the United States. The applicant was also requested to submit a photo identity document. The applicant, in response, provided the following documentation:

1. A copy of his Salvadoran passport;
2. A copy of his birth certificate and an English translation;
3. A copy of an immunization record;
4. A copy of a certificate of participation dated November 2, 2000;
5. A letter from [REDACTED], Office Assistant of Our Lady of the Valley Catholic Church and Parish School, attesting that the applicant and his mother claimed to be parishioners of the church since 1990 but no record exists to verify their registration in the Parish;
6. Copies of his employment authorization documents;
7. Copies of handwritten cash receipt notices dated March 8, 2004 and October 29, 2002;

8. A copy of a biometric appearance receipt notice dated November 3, 2006; and,
9. A letter dated January 15, 2002, acknowledging the applicant's request to obtain a Social Security card.

The director determined that the applicant had failed to submit sufficient evidence to establish his eligibility for TPS and denied the application on September 20, 2007.

On appeal, the applicant reasserts his claim and submits the following documentation:

10. Copies of his mother's Form(s) 1040A, U.S. Individual Income Tax Return, for the years 2001, 2002, 2003, 2004, and 2005.

The applicant has allegedly resided in the United States since he was 11 years old. It is reasonable that a school age child who has resided in the United States should be able to submit documentary evidence in the form of school records and medical records for each year of their residence. The applicant submitted a Certificate of Participation dated November 2, 2000; however, the certification does not provide any information as to what the applicant participated in or where this event took place. The immunization document, on the other hand, records legible dates of March 14, 2006 and June 7, 2006 for various vaccinations. The record also includes one annotation which appears to be July 17, 2000. The document appears to indicate that the applicant had chickenpox at the "age of five years old." Since the applicant was born in 1988, it is unclear as to why or how the box would have been checked to show that he "had disease when he was five years old." The event could have occurred sometime in 1993. It appears no vaccinations were administered on July 17, 2000, and specifically none until March 14, 2006.

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, in fact, 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 inconsistencies detailed above. Therefore, the reliability of the remaining evidence offered by the applicant is suspect and it must be concluded that the applicant has failed to establish eligibility for TPS.

The applicant has not submitted sufficient evidence to establish his qualifying continuous residence or continuous physical presence in the United States during the requisite period. He has, thereby, failed to establish that he has met the criteria described in 8 C.F.R. §§ 244.2(b) and (c). Consequently, the director's decision to deny the application for TPS 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 failed to meet this burden.

**ORDER:** The appeal is dismissed.