



U.S. Citizenship
and Immigration
Services

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FILE:

[EAC 08 009 79444]

OFFICE: Vermont Service Center

DATE: SEP 02 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 "R. Wiemann".

for Robert P. Wiemann, Chief
Administrative Appeals Office

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

The applicant is stated to be a 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 that he was eligible for late registration. The director also found that the applicant had failed to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite periods, and failed to provide a copy of an identity document.

On appeal, the applicant states that he came to the United States on February 2, 1999. The applicant submits additional evidence.

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 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).

The first issue in this proceeding is whether the applicant is eligible for late registration.

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 September 9, 2007. 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.

On January 30, 2008, the applicant was requested to submit evidence establishing his eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2). The applicant was also requested to submit evidence establishing his qualifying continuous residence and continuous physical presence in the United States as well as a copy of his identity document. The applicant, in response, provided documentation relating to his residence and physical presence in the United States.

The director determined that the applicant had failed to establish he was eligible for late registration and denied the application on March 12, 2008.

On appeal, the applicant reasserts his eligibility for TPS.

The applicant submitted evidence in an attempt to establish his qualifying residence and physical presence in the United States. However, this evidence does not mitigate the applicant's failure to file his Application for Temporary Protected Status within the initial registration period. The applicant has not submitted any evidence to establish that he has met any of the criteria 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 late registration will be affirmed.

The second issue in this proceeding is whether the applicant has established his continuous residence in the United States since February 13, 2001, and his continuous physical presence in the United States since March 9, 2001.

On appeal, the applicant submits the following documentation:

1. Copies of money transfer receipts from Gigante Express dated October 15, 2000, March 25, 2001, June 27, 2004, and April 21, 2005;
2. A copy of a receipt from Sears Merchandise Holding Customer Pickup Exchange dated March 25, 2005, with the customer's name [REDACTED];
3. An undated letter from [REDACTED] stating that she has known the applicant since he was a small child and that she has been a witness to his development;
4. A letter from [REDACTED] attesting that she has known the applicant for over five years;
5. A letter dated April 18, 2003 from [REDACTED] stating that the applicant was treated in his office on January 19, 2002;
6. A letter dated June 3, 2003, from [REDACTED] attesting that the applicant arrived in the United States in December of 2000, and that the applicant has been continuously within the United States since prior to February 13, 2001;
7. A copy of a bank statement dated October 6, 2007; and
8. A copy of a receipt payment to [REDACTED], dated February 1, 2008.

The documents submitted are not sufficient evidence since the affidavits are not accompanied by any corroborating documentation and the remainders of the documents do not encompass the entire timeframe specified. It is reasonable to expect that the applicant would have some type of contemporaneous evidence to support his assertions of being in the United States during the requisite time period since he claimed to have been

present since February 2, 1999. Moreover, affidavits are only specifically listed as acceptable evidence for proof of employment, and attestations by church, unions, or other organizations of the applicant's residence as specifically described in 8 C.F.R. §244.9(a)(2)(i) and (v).

The affidavit from [REDACTED] has little evidentiary weight or probative value as it does not provide basic information that is expressly required by 8 C.F.R. § 244.9(a)(2)(v). Specifically, the pastor does not explain the origin of the information to which he attests, nor does he provide the address where the applicant resided during the period of his involvement with the church. It is further noted that the pastor indicated the applicant arrived in the United States in December of 2000, which is inconsistent with the applicant's claim of having been in the United States since February 2, 1999. 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 not submitted sufficient evidence to establish his qualifying continuous residence or continuous physical presence in the United States during the requisite period. He has, therefore, 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 on these grounds will also be affirmed.

Finally, the applicant has failed to establish his national identity. Section 8 C.F.R. § 244.9 requires applicants to submit all information requested in the instruction on the forms and as may be requested by CIS. Acceptable evidence of nationality includes:

- i. Passport;
- ii. Birth Certificate accompanied by photo identification; and/or
- iii. Any national identity document from the alien's country of origin bearing a photo and/or fingerprint.

The record reveals that the applicant did not submit a copy of his birth certificate nor did he submit the required photo identification. The evidence submitted is not sufficient to establish the applicant's national identity. Therefore, the director's decision to deny the application on this ground is also 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 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.