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U.S. Citizenship
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FILE:



Office: Vermont Service Center

Date: FEB 05 2007

[EAC 02 060 52023]

IN RE:



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 Director, Vermont Service Center, denied the application which is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The applicant is a 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 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 submits additional documentation and reasserts that he is eligible 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 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.

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 initial registration period for Salvadorans was from March 9, 2001, through September 9, 2002. Subsequent extensions of the TPS designation have been granted, with the latest extension valid 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 August 28, 2005, the applicant was asked to submit evidence establishing his continuous residence in the United States since February 13, 2001, and his continuous physical presence since March 9, 2001. The applicant, in response, provided the following documentation:

1. a letter, dated August 30, 2005, from [REDACTED] President of Paperhangings Unlimited, stating that [REDACTED] had known the applicant for about four years and that the applicant had worked for the company since May 2005; and,
2. a U.S. Postal Service Certified Mail Receipt from correspondence mailed from St. Albans, Vermont, to the applicant, date stamped November 20, 2001.

On November 4, 2005, the director determined that the applicant had failed to submit sufficient evidence to establish his eligibility for TPS and denied the application.

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

1. a general letter, dated May 7, 2001, from Capital One regarding payment plan protection,
2. letter, dated November 15, 2005, on Paperhangings Unlimited letterhead, with an illegible signature, stating that the applicant has worked for that company since 2000.

The AAO can give little weight to the documentation in the record submitted to establish residence and continuous physical presence. The AAO notes that the Capital One letter mentioned above appears to have been altered as the applicant's name is misaligned and is written in a different font than the address that appears immediately below it. 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 inconsistent font on the letter. The second letter from Paperhangings Unlimited states different dates of employment for the applicant than the first letter submitted. *Id.* Again the applicant did not submit any objective evidence to explain or justify the inconsistent dates of employment. Therefore, the reliability of the evidence can be given little weight in consideration of the applicant's residence and continuous physical presence.

The applicant has not submitted sufficient evidence to establish his continuous residence or continuous physical presence in the United States during the period from February 13, 2001 to December 7, 2001. 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.