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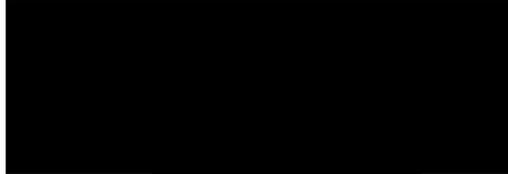
U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

M1



FILE: [REDACTED]
[EAC 06 347 80126]

Office: VERMONT SERVICE CENTER

Date: OCT 03 2007

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:



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 "Robert P. Wiemann".

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 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 that he was eligible for late registration. The director also found that the applicant had failed to establish his qualifying residence and physical presence in the United States during the requisite time periods.

On appeal, counsel states that the applicant is eligible for TPS because he meets the continuous residence and continuous physical presence, and late registration requirements.

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.
- (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. A subsequent extension of the TPS designation has been granted with validity 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 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 12, 2006.

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 December 12, 2006, 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 residence and physical presence in the United States. 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 January 29, 2007.

On appeal, counsel states that the applicant is eligible for late registration in that he registered for TPS within the time specified by the Attorney General. Counsel did not explain this assertion.

Contrary to counsel's assertions, the applicant did not apply during the initial registration period and 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.

As stated above, the applicant was requested on December 12, 2006 to submit evidence establishing his qualifying residence and physical presence in the United States. The applicant, in response, provided the following documentation:

1. A copy of a bank statement from [REDACTED] bearing the applicant's name and dated June 24, 2001;
2. A copy of a Verizon bill bearing the applicant's name and dated January 22, 2001;
3. A copy of a statement from [REDACTED] bearing the applicant's name and dated November 29, 2004;
4. A copy of a Certificate of Participation from [REDACTED] and Community Education Program bearing the applicant's name as participant and dated June 22, 2001;
5. A copy of a postmarked letter addressed to the applicant and [REDACTED] and dated January 22, 2001;
6. A copy of a postmarked letter from the applicant addressed to [REDACTED] and dated January 27, 2001; and,
7. Copies of certificates of achievement bearing the applicant's name and dated July 7, 2000, July 9, 2001, and July 15, 2002.

The director determined that the applicant had failed to submit sufficient evidence to establish his eligibility for TPS and denied the application on January 29, 2007.

On appeal, counsel reasserts the applicant's claim of eligibility for TPS and submits the following documentation:

8. Money order receipts bearing the applicant's name as sender and dated January 16, 2001, May 8, 2002, and September 10, 2003;

9. An untranslated document from [REDACTED]
10. A letter from the manager of Giant Express in which he stated that the applicant has been a client, frequently utilizing its services, since January 10, 2001;
11. A copy of a letter from [REDACTED] in which it is stated that the applicant opened two accounts with the corporation on November 9, 2001; and,
12. A letter from the [REDACTED] and Bakery in which it is stated that the company has employed the applicant since February 10, 2001.

The applicant has not submitted sufficient credible evidence to establish his qualifying residence in the United States since February 13, 2001, and his continuous physical presence in the United States since March 9, 2001. The applicant submitted a letter from [REDACTED] #2 that was not translated. 8 C.F.R. § 103.2(b)(3) requires that any document containing foreign language submitted to CIS shall be accompanied by a full English language translation which the translator has certified as complete and accurate, and by the translator's certification that he or she is competent to translate from the foreign language into English. Because the applicant failed to submit certified translations of the document, the AAO cannot determine whether the evidence supports the applicant's claims. See 8 C.F.R. § 103.2(b)(3). Accordingly, the evidence is not probative and will not be accorded any evidentiary weight in this proceeding.

The copies of the money order receipts provided by the applicant are not supported by any other corroborative evidence. While 8 C.F.R. § 244.9(a)(2)(vi) specifically states that additional documents such as money order receipts "may" be accepted in support of the applicant's claim, the regulations do not suggest that such evidence alone is necessarily sufficient to establish the applicant's qualifying residence or physical presence in the United States. The applicant claims to have lived in the United States since June of 1999. It is reasonable to expect that the applicant would have some other type of contemporaneous evidence to support these receipts; however, no such evidence has been provided. The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. 8 C.F.R. § 244.9(b).

The employment letter from the [REDACTED] and Bakery 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)(i). Specifically, the letter is not in affidavit form and does not provide the applicant's title or hours worked. It is further noted that the representative did not indicate the location of the deli and bakery, or verify that the business was even located inside the United States. It is further noted that the applicant failed to submit pay statements, cancelled checks, or certified tax documents to support the assertions made by the company representative.

The applicant filed his TPS application on September 12, 2006. He must therefore demonstrate his continuous residence since February 13, 2001, and continuous physical presence from March 9, 2001 to September 12, 2006, the date of filing. The applicant submitted two documents attesting to his presence in the United States in 2002, one document to demonstrate his presence in 2003 and 2004, and no documents to show his presence in the country in 2005 and 2006. The applicant has failed to submit sufficient evidence to establish that he has met the continuous residence and continuous physical presence 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.

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. The application will be denied for the above reasons, with each considered as an independent and alternative basis for denial.

ORDER: The appeal is dismissed.