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U.S. Department of Justice
Immigration and Naturalization Service

PUBLIC COPY

OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536



FEB 11 2003

File: [Redacted] Office: Texas Service Center Date:

IN RE: Applicant: [Redacted]

Petition: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. 1254

Identifying data deleted to prevent clearly unwarranted invasion of personal privacy

IN BEHALF OF PETITIONER: Self-represented

INSTRUCTIONS:

This is the decision 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.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office that originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Texas Service Center, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be dismissed.

The applicant is a native and citizen of El Salvador who indicated on his application that he entered the United States without a lawful admission or parole in August 1999. The director denied the application for Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. 1254, 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 provides evidence in an attempt to establish his residence in the United States.

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 temporary protected status 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 under section 244.3;
- (e) is not ineligible under 8 C.F.R. 244.4; and
- (f)
 - (1) registers for TPS during the initial registration period, or
 - (2) registers for TPS during any subsequent extension of such designation, if the applicant meets the above listed requirements and:
 - (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 term continuously physically present, as used in 8 C.F.R. 244.1, means actual physical presence in the United States for the entire period specified in the regulations.

The term continuously resided as used in 8 C.F.R. 244.1 means residing in the United States for the entire period specified in the regulations.

Persons applying for TPS offered to El Salvadorans must demonstrate entry on or prior to February 13, 2001, that they have continuously resided in the United States since February 13, 2001, and that they have been continuously physically present in the United States since March 9, 2001. On July 9, 2002, the Attorney General announced an extension of the TPS designation until September 9, 2003.

Applicants shall submit all documentation as required in the instructions or requested by the Service. 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 own statements. 8 C.F.R. 244.9(b).

On June 28, 2002, the applicant was provided the opportunity to submit evidence establishing his residence in the United States since February 13, 2001, and physical presence since March 9, 2001. In response, the applicant provided a letter from his pastor who stated that the applicant had lived in Arlington, Texas, since November 2001. The applicant also submitted receipts dated May 9, 1989, and February 20, 1990. While both of these receipts bear the applicant's name, it is noted that neither provides the applicant's address.

The director determined that the applicant had failed to establish his qualifying residence and physical presence in the United States and denied the application on July 1, 2002. On appeal, the applicant submits additional evidence in an attempt to establish his residence in the United States. The applicant provides receipts for money transfers in March, April, and May 2002 and pay-stubs from October and November 2001 and from February and June 2002.

The applicant has failed to provide any evidence to establish his residence in the United States since February 13, 2001, or his continuous physical presence since March 9, 2001. The burden of proof is upon the applicant to establish that he or she meets the above requirements.

The applicant has not submitted sufficient evidence 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 temporary protected status will be affirmed.

An alien applying for temporary protected status 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.