

**PUBLIC COPY**

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

**MI**

**identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy**

ADMINISTRATIVE APPEALS OFFICE  
CIS, AAO, 20 Mass, 3/F  
425 I Street, N.W.  
Washington, D.C. 20536



**NOV 22 2003**

FILE#



Office: Nebraska Service Center

Date:

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 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 Citizenship and Immigration Services (CIS) 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.

*Cindy M. Gomez for*  
Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, Nebraska 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. § 1254a.

The director determined that the applicant failed to submit any of the requested documentation to show that he met the registration requirements. He further determined that the applicant failed to provide conclusive evidence that he had remained and/or arrived in the United States so as to meet the requirements of the registration period for date of entry since February 13, 2001. The director, therefore, denied the application.

On appeal, the applicant states that he is submitting a copy of a rental contract to be taken into consideration to prove that he was living in Emporia, Kansas in 2001.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an alien who is a national of a foreign state designated by the Attorney General is eligible for temporary protected status only if such alien establishes that he or she:

- (a) Is a national, as defined in section 101(a)(21) of the Act, of a foreign 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 TPS 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 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 and since February 13, 2001. 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.

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 and since March 9, 2001. 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 application shows that the applicant entered the United States on November 2, 2001. He filed his TPS application on November 15, 2001. The applicant was requested on January 15, 2002 to submit: (1) evidence of date of his entry into the United States since February 13, 2001; (2) evidence to show that he has continuously resided in the United States since February 13, 2001; (3) evidence that he has been continuously physically present since March 9, 2001; and (4) a photocopy of a current photo identity document. The director listed examples of evidence the applicant may submit to establish eligibility.

The director noted that the applicant, in response, furnished letters from [REDACTED] and from Francisco Ramirez, pay stubs for November and December 2000, and a photo identification. The director determined that the applicant did not submit any of the requested documentation to show that he met the registration requirements. He maintained that affidavits of support, alone, cannot be used to establish eligibility. It is noted that the record of proceeding contains a letter dated February 17, 2002, from [REDACTED] Notary Public, certifying that she made an error in the TPS application, that the date the applicant entered the United States was November 2000 and not November 2001.

The applicant, on appeal, submits a copy of a rental contract, dated January 15, 2001, indicating that the applicant was an occupant at 18 S. Exchange, Emporia, Kansas, where he was renting from Carlos Carpio. The document is also signed by [REDACTED] who is identified as the owner. The dates of rental are shown to be January 15, 2001 to January 14, 2002. However, Maria Ceren, in a statement dated February 17, 2002, states that the applicant lived at her home since August 2001 when he moved to Emporia, Kansas. The address she provided as her home was the same as the address listed in the rental contract. This conflicting information greatly reduces the credibility of the rental agreement. Furthermore, the affidavits from acquaintances, without corroborative evidence, do not substantiate clear and convincing evidence of the applicant's entry and residence in the United States since February 13, 2001, and continuous physical presence since March 9, 2001.

The applicant has failed to establish that he met the criteria for continuous residence and continuous physical presence described in 8 C.F.R. § 244.2(b) and (c).

The burden of proof is upon the applicant to establish that he 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 appeal will be dismissed.

**ORDER:** The appeal is dismissed.