

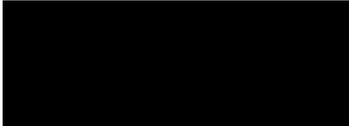
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U.S. Department of Homeland Security

Citizenship and Immigration Services

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



File: [Redacted]  
[LIN 02 017 53229]

Office: Nebraska Service Center Date:

OCT 21 2003

IN RE: Applicant: [Redacted]

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

PUBLIC COPY

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 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.

*Robert P. Wiemann for*  
Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The application and a subsequent motion to reopen were both denied by the Director, Nebraska Service Center. The case 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 indicated on his application that he entered the United States without a lawful admission or parole on August 22, 2000. 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 reasserted his claim of eligibility for TPS. The applicant submitted additional affidavits in an attempt to corroborate this claim.

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 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.

The phrase brief, casual, and innocent absence, as defined in 8 C.F.R. § 244.1, means a departure from the United States that satisfies the following criteria:

- (1) Each such absence was of short duration and reasonably calculated to accomplish the purpose(s) for the absence;
- (2) The absence was not the result of an order of deportation, an order of voluntary departure, or an administrative grant of voluntary departure without the institution of deportation proceedings; and
- (3) The purposes for the absence from the United States or actions while outside of the United States were not contrary to law.

Persons applying for TPS offered to El Salvadorans must demonstrate entry on or prior to February 13, 2001, continuous residence in the United States since February 13, 2001, and continuous physical presence 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. A subsequent extension of the TPS designation has been granted by the Secretary of Homeland Security, with validity until March 9, 2005, 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).

On November 7, 2001, the applicant was provided the opportunity to submit evidence establishing his residence since February 13, 2001, and physical presence since March 9, 2001, in the United States. The applicant was also requested to submit a current photo identity document. The applicant, in response, provided the following documentation:

1. An affidavit from his sister, [REDACTED] who testified that the applicant had been in the United States since August 2000;
2. A photocopy of a "United States Identification Card" issued by a private company;
3. An affidavit from [REDACTED] who testified that the applicant had lived in the United States since August 2000;
4. A letter from the Associate Pastor of Visitation Catholic Church in Des Moines, Iowa, Father Thomas J. Pfeffer, who testified to the applicant's involvement with that church since 2000; and,
5. A photocopy of his Salvadoran identification card issued on November 17, 1997.

The director determined that the applicant had failed to submit sufficient evidence to establish his eligibility for TPS and denied the application on May 31, 2002. On motion to reopen, the applicant reasserted his claim and submitted the following documentation:

6. Another letter from Father Pfeffer attesting to the applicant's residence in the United States since August 2000; and,
7. A letter from Reymundo and Michelle Christenson who testified to the applicant's residence in the United States since August 2000;

The director denied the motion on August 20, 2002, after concluding that the affidavits submitted by the applicant did not overcome the initial denial. On appeal, the applicant stated that the person who assisted him in filing his application and his motion to reopen had given him "bad advice about how to fill out the forms." The applicant reasserted his claim of eligibility and submitted the following evidence:

8. A Form G-325A, Biographic Information sheet completed

- by the applicant detailing his claims of residence and employment in the United States since August 2000;
9. Another letter from Reymundo and Michelle Christenson attesting to the applicant's residence in the United States since August 2000;
  10. Affidavits from Luz Marina Umana, Mercedes Guardado, Jose J. Baires, Elenison A. Guerrero, Edelmira Baires, Ana Vilma Baires, Sandro Ramirez, and Dora Luisa Galvez Escobar attesting to the applicant's residence in the United States since August or September of 2000.

The affidavits submitted by the applicant are not supported by any corroborative evidence. It is reasonable to expect that the applicant would have some type of contemporaneous evidence to support these assertions; however, no such evidence has been provided. Affidavits from relatives and acquaintances are not, by themselves, persuasive evidence of residence or presence. The applicant 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 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.