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U.S. Department of Homeland Security
20 Mass, Rm. A3042, 425 I Street, N.W.
Washington, DC 20536



U.S. Citizenship
and Immigration
Services

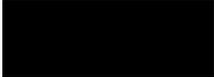
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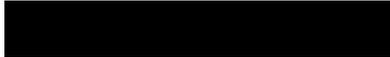


Office: VERMONT SERVICE CENTER

Date:

IN RE:

Applicant:



APPLICATION:

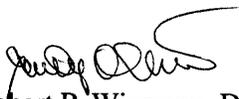
Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT:



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.

for 

Robert P. Wiemann, Director
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 determined that the applicant failed to submit evidence to establish that he had continuously resided in the United States since February 13, 2001. The director, therefore, denied the application.

On appeal, counsel for the applicant asserts that the applicant has submitted sufficient evidence to establish his eligibility for temporary protected status. Counsel submits a personal statement from the applicant and additional evidence of the applicant's 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 as designated by the Attorney 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.
- (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 condition described in paragraph (f)(2) of this section.

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.

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 entry into the United States 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. A subsequent extension of the TPS designation has been granted by the Secretary of the Department 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 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).

The record of proceeding confirms that the applicant filed his TPS application on May 21, 2001. The applicant submitted a copy of his birth certificate and evidence of nationality. However, he did not submit any evidence to support his claim that he had entered on March 17, 2000, and continuously resided in the United States since that time.

The applicant was requested on October 29, 2002, to submit evidence to establish continuous residence in the United States since February 13, 2001, and evidence to establish physical presence in the United States since March 9, 2001. In response, the applicant submitted a December 5, 2002 affidavit from [REDACTED] who stated that he and the applicant have resided at the same address since 2001.

The director concluded that the applicant had failed to establish his qualifying residence and physical presence in the United States during the requisite periods and denied the application on April 2, 2003. On appeal, the applicant reiterates his claim to eligibility for TPS and submits the following documentation:

- 1.) another copy of the December 5, 2002 affidavit from [REDACTED]
- 2.) an April 21, 2003 affidavit from [REDACTED] who states that he has known the applicant since mid-April 2000;
- 3.) an undated affidavit from [REDACTED] who states that he has known the applicant since April 2000 and that he has knowledge that the applicant has been living in the United States since April 2000; and,
- 4.) an undated affidavit from [REDACTED] who states that she has known the applicant since April 2000 and that she has knowledge that the applicant has lived in the United States since that time.

The affidavits from [REDACTED] and [REDACTED] merely state that they have known the applicant since April 2000. However, neither provides any specific information to establish that they have direct knowledge that the applicant has been continuously present in the United States since February 13, 2001, and that he has been physically present in the United States since March 9, 2001. While the affidavits from Mr. [REDACTED] state that he has known the applicant since April 2000, and that they lived together starting in 2001, the affidavits are not supported by any corroborative evidence. Affidavits from acquaintances are not, by themselves, persuasive evidence of residence or presence.

The applicant claims to have continuously resided in the United States since March 17, 2000. It is reasonable to expect that the applicant would have contemporaneous evidence to support his assertion; however, no evidence has been provided. The applicant has, therefore, failed to establish that he has met the continuous residence and physical presence requirements 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.

The burden of proof is upon the applicant to establish 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.