



U.S. Citizenship
and Immigration
Services

VA-1

[REDACTED]

FILE:

Office: VERMONT SERVICE CENTER

Date:

AUG 03 2004

IN RE:

Applicant:

[REDACTED]

APPLICATION:

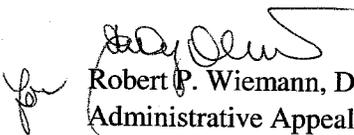
Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT:

Self-represented

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.


Robert P. Wiemann, Director
Administrative Appeals Office

PUBLIC COPY

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 continuous residence in the United States since February 13, 2001. The director, therefore, denied the application.

On appeal, the applicant states that he has been in the United States since 1999, and that he has never left this country since that time. The applicant states further that he thought that he had furnished all the proof requested in the Notice of Action, but that he and a friend had misunderstood the notice and he did not send all of the evidence needed to establish his eligibility for TPS.

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 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.

- (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.

The term *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 term *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.

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. 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 reflects that the applicant submitted his initial application for TPS on May 29, 2001. In support of his application, the applicant submitted an August 11, 1999 receipt from Urgente Express in the name Elmer Alvarenga.

On March 12, 2002, the applicant was requested to submit evidence to establish that he had continuously resided in the United States since February 13, 2001. In response, the applicant submitted a July 25, 2002 employment verification letter from Cynthia Gamble, Human Resource Manager, Sheraton College Park Hotel, Beltsville, Maryland, stating that the applicant had been employed there on a full-time basis since July 8, 2002.

On May 9, 2003, the director concluded that the applicant had failed to establish his qualifying continuous residence in the United States during the requisite period and denied the application.

On appeal, the applicant reiterates his claim to eligibility for TPS. The applicant submits the following evidence:

- 1.) a March 15, 2001 rent receipt;
- 2.) an April 21, 2004 letter in the Spanish language which was not accompanied by an English translation;
- 3.) an October 20, 2004 sales receipt from Sears;
- 4.) another copy of the July 25, 2002 employment verification letter from Sheraton College Park Hotel;
- 5.) a May 19, 2003 letter from [REDACTED] Department Manager, Sheraton College Park Hotel, verifying that the applicant has been employed there on a full-time basis since July 8, 2002;
- 6.) pay statements from [REDACTED], dated July 26, 2002, October 4, 2002, and May 16, 2003;
- 7.) Western Union receipts dated August 8, 2002 and September 9, 2002;
- 8.) a May 14, 2003 receipt issued by Vigo ;
- 9.) a March 3, 2003 receipt issued by Quality Tax Service;
- 10.) a May 7, 2003 receipt issued by Nature's Sunshine Products Inc.; and,
- 11.) a May 11, 2003 receipt issued by Bancomercio.

The applicant has failed to provide sufficient evidence to establish his claim to eligibility for TPS. The March 15, 2001 receipt does not show an address for which the rent was paid. As such, it is of no evidentiary or probative value. The letters from [REDACTED] verify that the applicant has been employed there from July 8, 2002 through the date he filed the application for TPS. However, the applicant has not furnished any evidence for the period from February 13, 2001 through July 8, 2002. The applicant claims to have resided in the United States since September 1999. It is reasonable to expect that the applicant would have some type of contemporaneous evidence to support this assertion; however, no such evidence has been provided. The applicant has, therefore, failed to establish that he has met the continuous residence and continuous 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.

It is noted that the record contains a Form I-862, Notice to Appear, issued to the applicant on September 14, 1999, under file number [REDACTED] reflecting that he attempted to enter the United States at Douglas, Arizona, on or about September 12, 1999. The applicant was released on bond and ordered to appear before an immigration judge on October 12, 1999; however, the record does not contain a final order of the immigration judge.

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.