



U.S. Citizenship  
and Immigration  
Services

MM

[REDACTED]

FILE: [REDACTED] Office: VERMONT SERVICE CENTER Date: 406 24 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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

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 denied the application 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 submits a statement and additional evidence.

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 except as provided under section 244.3;
- (e) Is not ineligible under 8 C.F.R. § 244.4; and
- (f)
  - (1) Registers for Temporary Protected Status 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 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 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 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 applicant submitted the following evidence with the initial application in an attempt to establish continuous residence and physical presence during the requisite periods:

1. six generic rent receipts dated January 1, 2001; February 2, 2001; January 1, 2002; February 2, 2002; March 1, 2002; and, April 1, 2002;
2. an affidavit dated August 12, 2002, from [REDACTED] stating that he and the applicant were friends in El Salvador and that the applicant entered the United States "about two years ago" and "has been residing in the United States before and after February 13, 2001";
3. an affidavit dated August 24, 2002, from [REDACTED] stating that he and the applicant were friends in El Salvador and that the applicant entered the United States "about two years ago" and "has been residing in the United States before and after February 13, 2001"; and,
4. a letter dated September 1, 2002, from [REDACTED] stating that the applicant "has been a member of this congregation since August 2000 and he attends Mass in this parish."

On March 27, 2003, the applicant was requested to submit additional evidence establishing his continuous residence since February 13, 2001, and his continuous physical presence since March 9, 2001. The applicant, in response, provided the following:

1. a letter dated April 25, 2003, from [REDACTED] Sales and Service Representative for "Fleet" stating that the applicant had maintained a checking and savings account with "this financial institution" since August 2002;
2. a savings account statement from Fleet dated April 17, 2003;
3. an affidavit dated April 24, 2003, from [REDACTED] stating that he knew the applicant in El Salvador and that the applicant entered the United States "on February of 2000";
4. an affidavit dated April 22, 2003, from [REDACTED] stating that she has known the applicant "since we resident [sic] in El Salvador" and that the applicant entered the United States "about two years ago" and "has residing [sic] in the United States before and after February 13, 2001";
5. an affidavit from [REDACTED] dated April 25, 2003, stating, "I know [REDACTED] I was rent[ing] a room when we are resident in the [REDACTED] in the city [REDACTED] on February 2000 to January 2001," and that "[the applicant] has been residing in the United States before and after February 13, 2001"; and,

6. money transfer invoices from gigante express in Miami, Florida, showing that the applicant mailed money to [REDACTED] on May 29, 2002; December 5, 2002; September 9, 2002; and May 25, 2002.

The director determined that the applicant had failed to submit sufficient evidence to establish his eligibility for TPS and denied the application on May 30, 2003.

On appeal, the applicant reasserts his claim and submits a receipt from Hess for the purchase of automotive oil dated January 13, 2001, along with copies of evidence previously submitted with the initial application and in response to the director's request for additional evidence.

The affidavits from [REDACTED] are not supported by any contemporaneous evidence. These affidavits, alone, are not sufficient to establish the applicant's qualifying residence and physical presence during the requisite periods.

The letter from [REDACTED] has little evidentiary weight or probative value as it does not provide basic information that is expressly required by 8 C.F.R. § 244.9(a)(2)(v). Specifically, the pastor does not explain the origin of the information to which he attests, nor does he provide the address(es) where the applicant resided during the period of his involvement with the church.

The copies of generic rent receipts provided by the applicant are not supported by sufficient, corroborative evidence. While 8 C.F.R. § 244.9(a)(2)(vi) specifically states that additional documents such as rent receipts "may" be accepted in support of the applicant's claim, the regulations do not suggest that such evidence alone is necessarily sufficient to establish the applicant's qualifying residence or physical presence in the United States.

The applicant has submitted a letter from Fleet Bank, a banking statement from Fleet Bank, and copies of four invoices from gigante express in Miami, Florida, to help establish his presence in the United States after May 25, 2002, but the applicant has not submitted sufficient, credible evidence to establish continuous residence since February 13, 2001, and continuous physical residence since March 9, 2001. The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. 8 C.F.R. § 244.9(b). It is determined that the documentation submitted by the applicant is not sufficient to establish that he satisfies the 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.

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.