



U.S. Citizenship
and Immigration
Services

M

[Redacted]

FILE:

[Redacted]

Office: VERMONT SERVICE CENTER

Date:

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 "R. Wiemann".

Robert P. Wiemann, Director
Administrative Appeals Office

*Identify the date deleted to
prevent further processing*

PUBLIC COPY

DISCUSSION: The application was denied by the Director, Vermont Service Center, and is now before the Administrative Appeals Office (AAO) 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 the applicant failed to establish that: (1) he continuously resided in the United States since February 13, 2001; and, (2) had been continuously physically present in the United States since March 9, 2001.

On appeal, the applicant submits a brief statement and additional documentation. The applicant indicates that he is sending a brief and/or evidence to the AAO within 30 days of filing the appeal. To date, no additional documentation has been received; therefore, the record is considered complete.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an applicant is eligible for TPS 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 § 244.3;
- (e) Is not ineligible under § 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.

- (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 conditions described in paragraph (f)(2) of this section.

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. The initial registration period for Salvadorans was from March 9, 2001, through September 9, 2002. The record reveals that the applicant filed his initial Form I-821, Application for Temporary Protected Status, with the Immigration and Naturalization Service (INS), now Citizenship and Immigration Services (CIS), on July 2, 2001.

The burden of proof is upon the applicant to establish that he meets the above requirements. Applicants must 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 burden of proof the applicant must provide supporting documentary evidence of eligibility apart from his own statements. 8 C.F.R. § 244.9(b).

In support of his initial application, the applicant submitted photocopies of the following documentation:

1. The identity page of his El Salvadoran passport, issued on November 12, 1999 in San Miguel, El Salvador;
2. His El Salvadoran birth certificate, with English translation. It is noted that the birth certificate is an extract of the original, and was issued in El Salvador on May 21, 2001;
3. An airline itinerary, issued to the applicant on March 30, 2000, indicating travel from San Salvador, El Salvador to [REDACTED], Washington, D.C., on April 17 (year not provided), returning from Washington, D.C., to San Salvador, El Salvador, on May 11 (year not provided); and,
4. A letter, dated June 26, 2001, from [REDACTED] of the Hispanic Ministry of [REDACTED] Silver Spring, Maryland. [REDACTED] states that the applicant has been an active member of the parish "for almost a year."

On February 11, 2003, the applicant was requested to submit additional evidence in order to establish his continuous residence and continuous physical presence in the United States during the requisite time periods. In response, the applicant submitted the following:

5. A letter, dated March 24, 2003, from [REDACTED], stating that he rented a room to the applicant from July 15, 2000 to the present. It is not indicated whether [REDACTED] is a relative of the applicant's; and,
6. A letter, dated March 24, 2003, from [REDACTED] stating that he employed the applicant from September 12, 2000 to June 5, 2002, at a rate of \$10.00 per hour/\$400 per week [REDACTED] does not indicate the nature of his business, the applicant's position, or the applicant's address at the time of his employment.

The director determined that the letters provided were not sufficient to establish the applicant's qualifying continuous residence and continuous physical presence in the United States. The director denied the application on July 8, 2003.

On appeal, the applicant resubmits photocopies of No.'s 5 and 6 (above). He also submits:

7. A second letter from [REDACTED] dated July 24, 2003. In this letter, [REDACTED] states that the applicant has been an active member of the parish since September 2000.

Based on a review of the record, the applicant has failed to overcome the grounds for the director's decision. On his Form I-821 and in No. 3, the applicant claims to have entered the United States by air at Dulles International Airport on April 17, 2000. However, the applicant has not provided a photocopy of his passport

page containing a U.S. entry stamp as evidence of that travel; he has only provided a photocopy of the passport identity page (see No. 1).

The employment letter, No. 6, and affidavits from [REDACTED] No's 4 and 7, have little evidentiary weight or probative value as they do not provide basic information that is expressly required by 8 C.F.R. § 244.9(a)(2). Specifically, [REDACTED] does not provide the address where the applicant resided during the period of his employment. [REDACTED] also does not indicate the name or address of his business, or otherwise verify that the business is located inside the United States. Additionally, [REDACTED] does not provide the address where the applicant resided during the period of his involvement with the church.

Furthermore, the applicant has not provided rent receipts to corroborate the information provided in No. 5, or other credible contemporaneous evidence to establish that he resided at that address during the time period specified by the affiant. Finally, it is noted that the extract of the applicant's birth certificate was issued while the applicant claims to have been physically present in the United States.

It is concluded that the documentation submitted by the applicant is not sufficient to establish that he satisfies 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.

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.