



U.S. Citizenship  
and Immigration  
Services

MM

[Redacted]

FILE:

[Redacted]

Office: VERMONT SERVICE CENTER

Date:

5/5/2014

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

Identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy

**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 denied the application because the applicant failed to establish he had been continuously physically present in the United States since March 9, 2001.

On appeal, the applicant submits a letter and additional documentation in an attempt 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 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.

On March 9, 2001, the Attorney General designated El Salvador for TPS. On July 9, 2002, the Attorney General announced an extension of the TPS designation until September 9, 2003. The Secretary of the Department of Homeland Security granted a subsequent extension of that designation, with validity until March 9, 2005, upon the applicant's re-registration during the requisite time period.

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

The record reflects that the applicant filed his initial Form I-821, Application for Temporary Protected Status, on June 17, 2002. At the time of filing his application, the applicant indicated that he had last entered the United States without inspection in March 2000. In support of his initial application, the applicant submitted an affidavit, dated June 14, 2002, from [REDACTED] stating that the applicant had rented a room in her apartment since June 1, 2000.

On March 4, 2003, the applicant was requested to submit additional documentation, such as employment records, rent/mortgage receipts, medical or utility bills, or other similar materials, to establish that he had been physically present in the United States from March 9, 2001, to the date of filing his application. In response, the applicant resubmitted a photocopy of [REDACTED] affidavit. The applicant stated: “. . . I have no other proof since I was illegal I had nothing in my name in fear of my [CIS] status. . . .”

The director determined that the applicant had failed to establish his continuous physical presence in the United States since March 9, 2001, and denied the application on May 1, 2003.

On appeal, the applicant submits an affidavit from [REDACTED], who states that he has known the applicant since he first arrived in the United States from El Salvador in March 2000. The applicant again indicates that he did not use his name due to fear of being caught in the United States illegally.

The applicant claims to have lived in the United States since March 2000. It is reasonable to expect that he would have some type of contemporaneous evidence to support this claim; however, no such evidence has been provided. Affidavits from acquaintances are not, by themselves, persuasive evidence of residence or physical presence. Furthermore, simply going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. See *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972).

It is determined that the documentation submitted by the applicant is insufficient to establish that he satisfies the continuous physical presence requirements described in 8 C.F.R. §§ 244.2(b). Consequently, the director's decision to deny the application for temporary protected status will be affirmed.

It is noted that, beyond the decision of the director, the applicant has also not established that he has continuously resided in the United States since February 13, 2001. Therefore, the application also cannot be approved for this reason.

An alien applying for temporary protected status has the burden of proving that he 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.