



U.S. Citizenship
and Immigration
Services

WA



FILE: [REDACTED] Office: VERMONT SERVICE CENTER Date: OCT 28 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

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prevent disclosure of unclassified
information

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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 asserts his claim of eligibility for TPS and submits evidence in support of his claim.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an alien who is a national of a foreign state 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 § 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, 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 record shows that the applicant filed his TPS application on July 31, 2002. Along with his application, the applicant submitted the following documentation:

1. A copy of his El Salvadoran birth certificate along with an English translation.
2. A copy of Mr. [REDACTED] Grand Prix identification card dated August 10, 2001.
3. A copy of his immunization records indicating vaccinations given on August 27, 2001 and November 8, 2001.
4. A copy of his 9th grade identification card from Poly High School for the school year August 29, 2001 to June 28, 2002.
5. A copy of his spring semester course schedule dated February 28, 2002, from the Francis Poly High School.
6. A copy of his patient identification card from Valley Care issued on March 21, 2002.
7. A copy of the applicant's Consent Note dated April 19, 2002, from the Polytechnic High School.
8. A copy of the applicant's Work-Service Agreement with an illegible date.

On April 23, 2003, the applicant was requested to submit evidence establishing his residence in the United States since February 13, 2001, and physical presence from March 9, 2001, to the date of filing the TPS application on July 31, 2002. The applicant, in response, provided the following documentation:

9. A letter dated April 28, 2003, from his father, [REDACTED] who stated that the applicant lived with him when he arrived in the United States in January 2001.
10. Resubmitted copies of his immunization records, patient identification card, and high school identification card.
11. A copy of his report card from Francis Poly High School, in Sun Valley, California, issued in the year 2002; however, the complete date of the report is not legible.
12. A copy of his Employment Authorization Card valid from September 10, 2002 to September 9, 2003.

The director determined that the applicant had failed to submit sufficient evidence to establish his eligibility for TPS and denied the application on June 2, 2003. On appeal, the applicant reasserts his claim and submits the following documentation:

13. A note written in Spanish, without an English translation, dated June 16, 2003.
14. A check-stub for [REDACTED] dated November 12, 1999, from Johnny's Luncheonette in Newton Centre, Massachusetts.
15. Resubmitted copies of his immunization records, spring semester course schedule from Francis Poly High School, and Employment Authorization Card.

The statements from the applicant's father as detailed in No. 9 above, regarding the applicant's claimed presence and residence in the United States, are not supported by corroborative evidence. Further, while the applicant, on appeal, states that he did not have any evidence before February 13, 2001 or after March 9, 2001, because he was living with his father who paid all of his expenses, it would seem reasonable to expect that the applicant would have some type of contemporaneous evidence to support his statement and his father's statement; however, no corroborative evidence has been provided.

All documentation furnished by the applicant in his attempt to establish continuous residence and continuous physical presence in the United States is dated only since August 2001.

The applicant has not submitted sufficient evidence to establish date of entry and continuous residence in the United States since February 13, 2001, or his continuous physical presence in the United States since March 9, 2001. He has, therefore, failed to establish that he has met the criteria 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.