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U.S. Citizenship  
and Immigration  
Services

[Redacted]

FILE: [Redacted]

Office: VERMONT SERVICE CENTER

Date: SEP 16 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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Identifying data deleted to  
protect client's unwarranted  
disclosure 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 that he had continuously resided in the United States since February 13, 2001, and had been continuously physically present in the United States since March 9, 2001.

On appeal, the applicant submits additional documentation.

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, 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 parole; 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. 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 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 September 14, 2001.

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).

On April 23, 2003, the applicant was requested to submit evidence to establish his continuous residence in the United States since February 13, 2001, and continuous physical presence since March 9, 2001. The applicant, in response, submitted the following documentation:

1. A letter, dated May 7, 2003, from [REDACTED] of Miton Ltd., Patchogue, New York, stating that the applicant has been employed by the company since February 2001; and,
2. A letter, dated April 30, 2003, from [REDACTED] stating that the applicant had resided at three different addresses in Patchogue, New York since December 16, 2000.

The director determined that the documentation submitted was insufficient to establish his qualifying continuous residence and continuous physical presence during the requisite time periods. The director denied the application on July 8, 2003.

On appeal, the applicant submits the following additional documentation:

3. A letter, dated July 23, 2003, from [REDACTED] of Miton Ltd., Patchogue, New York, stating that the applicant had been employed by the company since February 5, 2001;
4. A photocopy of a letter from Social Security, Patchogue, New York, indicating that the applicant applied for a social security card on December 3, 2001;
5. A photocopy of a VoiceStream Wireless statement issued to Israel Pereira, in care of the applicant, for monthly service charges for the period April 14, 2002, to May 13, 2002;
6. A photocopy of a Western Union money transfer receipt indicating that the applicant sent money from Patchogue, New York, on August 17, 2002, to [REDACTED] in El Salvador; and,
7. A photocopy of an undated Western Union money transfer application.

The applicant claims to have entered the United States on December 16, 2000. It is reasonable to expect that the applicant would have credible contemporaneous evidence to support his claim, such as pay stubs, rent receipts, and/or bank statements. The affidavits provided by the applicant, Nos. 1, 2 and 3, are not, by themselves, persuasive evidence of qualifying continuous residence and continuous physical presence. Nos. 4, 5, and 6 contain dates well after the dates required for establishing continuous residence and continuous physical presence. Also, No. 7 is nothing more than an undated application form.

It is concluded that the applicant has not submitted sufficient evidence to establish his qualifying continuous residence in the United States since February 13, 2001, and 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.