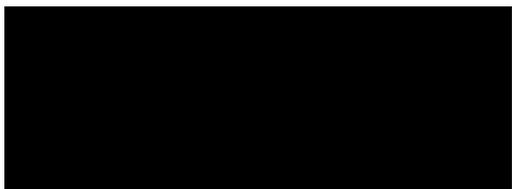




U.S. Citizenship  
and Immigration  
Services

M



FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: SEP 24 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

**PUBLIC COPY**

Identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy

**DISCUSSION:** The application was denied by the Director, California 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 continuous residence in the United States since February 13, 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, 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. 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 only a California Identification Card issued on July 9, 2002 with the Form I-821, Application for Temporary Protected Status.

The director determined that the applicant had failed to submit sufficient evidence to establish his eligibility for TPS and denied the application on February 12, 2004.

On appeal, the applicant states he is eligible for TPS and submits the following evidence in an attempt to establish continuous residence in the United States since February 13, 2001:

1. an undated employment letter signed by [REDACTED] service in Los Angeles, California, stating that the applicant worked for her company from January 2001 to August 22, 2001, for a cash salary of \$200 per week;
2. an undated letter from [REDACTED] in Los Angeles, California, stating that applicant had been a client of his company since June 6, 2001, and had sent 133 money transfers to El Salvador since that date;
3. ADP pay statements indicating that the applicant was employed by Cedar Lane Natural Foods in Carson, California, under Social Security Number [REDACTED] for the following pay periods: August 20, 2001 to August 26, 2001; August 27, 2001 to September 2, 2001; September 24, 2001 to September 30, 2001; October 29, 2001 to November 4, 2001; November 26, 2001 to December 2, 2001; December 24, 2001 to December 30, 2001; and, January 21, 2002 to January 27, 2002.
4. ADP pay statements indicating that the applicant was employed by [REDACTED] under Social Security Number [REDACTED] during the following pay periods: February 25, 2002 to March 3, 2002; April 29, 2002 to May 5, 2002; May 27, 2002 to June 2, 2002; June 24, 2002 to June 30, 2002; July 29, 2002 to August 4, 2002; and, August 26, 2002 to September 1, 2002.

The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. 8 C.F.R. § 244.9(b). The employment letter from [REDACTED] is not sufficient to establish the applicant's employment for her company from January 2001 to August 22, 2001. The letter is not in affidavit form, and it is not attested to by [REDACTED] under penalty of perjury. Further, [REDACTED] did not provide the exact dates of employment, the applicant's address(es) at the time of employment, or his duties with the company.

The ADP pay statements submitted in an attempt to establish the applicant's residence in the United States from August 2001 to September 1, 2002 contain discrepancies that raise questions as to the credibility of these documents. The pay statements from August 20, 2001 through January 27, 2002, indicate the applicant worked for Cedar Lane under Social Security Number [REDACTED]. The pay statements from February 25, 2002 through

September 1, 2002, indicate the applicant worked for [REDACTED] under Social Security Number [REDACTED] the number he identified as his Social Security Number on the Form I-821. Additionally, the pay statement for the pay period from December 24, 2001 to December 30, 2001, indicates that the applicant's salary for the year-to-date is \$286.88, but the applicant's year-to-date salary for the pay period from November 26, 2001 to December 2, 2001 is shown as \$5,280.20. Further, the applicant's year-to-date salary for the pay period from January 21, 2002 to January 27, 2002 is shown as \$1,651.27, but the applicant's year-to-date salary for the pay period from February 25, 2002 to March 3, 2002 is shown is \$1603.16, a lower total than the earlier pay period ending January 27, 2002. Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. Further, it is incumbent on the applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth lies will not suffice. *Matter of Ho*, 19 I&N Dec. 582. (Comm. 1988). In this case, the applicant has not provided any explanation for the inconsistencies in the ADP pay statements for Cedar Lane, nor has he provided any independent, objective evidence to substantiate his claim of employment for Cedar Lane during the period from August 20, 2001 to September 1, 2002.

It is determined that the applicant has not submitted sufficient, credible documentation to establish that he satisfies the residence requirement 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.

Beyond the decision of the director, it is noted that the applicant filed his Form I-821 on September 16, 2003. The initial registration period for Salvadorans ended on September 9, 2002. The applicant has not provided any evidence to establish his eligibility for late registration. Additionally, the applicant has not provided sufficient evidence to establish continuous physical presence in the United States since March 9, 2001. Therefore, the application also may not be approved for these reasons

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.