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U.S. Citizenship  
and Immigration  
Services



FILE: [REDACTED]  
[EAC 04 003 53254]

Office: VERMONT SERVICE CENTER

Date: SEP 27 2012

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.

*for*   
Robert P. Wiemann, Director  
Administrative Appeals Office

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**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 his continuous residence in the United States during the requisite period.

On appeal, the applicant provides 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 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 section 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 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 record reveals that the applicant filed his application with the Immigration and Naturalization Service, now Citizenship and Immigration Services (CIS), on December 31, 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 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 issue to be addressed in this proceeding is whether the applicant has established his continuous residence in the United States since February 13, 2001.

In a notice of intent to deny dated May 9, 2003, the applicant was requested to submit evidence to establish continuous residence in the United States during the requisite timeframe. In response, the applicant submitted: a Bancomercio Remittance Order Form dated April 30, 2001; a Sears Merchandise Holding Customer Pickup Slip dated September 23, 2001; a Charge Statement from Sprint containing no date; a Cox Communications Billing Statement dated September 30, 2002; and, two Bill Payment Receipts from Cox Communications dated December 18, 2002, and February 13, 2003.

The director determined that the evidence submitted was not sufficient to establish the applicant's continuous residence in the United States during the required timeframe. The director denied the application on July 17, 2003.

On appeal, the applicant submits: a copy of a Western Union Money Transfer dated July 11, 2003; a copy of a Receipt & Itinerary dated July 17, 2003; copies of three cancelled checks from Provident Bank for September 1, 2002, September 8, 2002, and October 19, 2002; a letter from the Social Security Administration dated July 26, 2002; an invoice dated April 14, 2003; an undated Sprint bill; a bank statement from Provident Bank dated November 21, 2002; and, a receipt from Radio Shack dated June 7, 2003.

The record contains insufficient evidence between February 13, 2001 and December 31, 2001, the filing date of the TPS application (almost an eleven-month timeframe) to demonstrate that the applicant has been continuously residing in the United States since February 13, 2001. The above-mentioned Sears Merchandise Holding Customer Pickup Slip dated September 23, 2001, and the Bancomercio Remittance Order dated April 30, 2001, are not sufficient for the purpose of meeting the burden of proof in these proceedings. *See Matter of Treasure Craft of California*, 14 I & N Dec. 190 (Reg. Comm. 1972). The applicant has, therefore, failed to establish that he has met the criteria described in 8 C.F.R. § 244.2(c). Consequently, the director's decision to deny the application for TPS on this ground will be affirmed.

Beyond the decision of the director, the applicant has not provided sufficient evidence to establish his identity, and that he has been continuously physically present in the United States since March 9, 2001. Therefore, the application must also be denied 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.