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U.S. Citizenship
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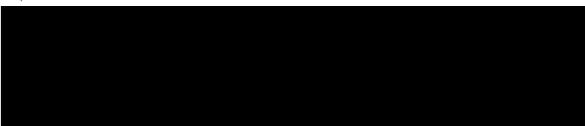


FILE: [REDACTED]
[EAC 02 283 52299]

Office: VERMONT SERVICE CENTER

Date: AUG 01 2005

IN RE: Applicant:



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

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 claims to be a 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 qualifying continuous physical presence in the United States during the requisite time period.

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 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. Subsequent extensions of the TPS designation have been granted, with the latest extension valid until September 9, 2006, upon the applicant's re-registration during the requisite time period.

The burden of proof is upon the applicant to establish that he meets the above requirements. Applicants must 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 applicant filed his initial Form I-821, Application for Temporary Protected Status, on September 6, 2002. The following documentation was submitted in support of the application:

1. A photocopy of the applicant's El Salvadoran birth certificate, with English translation;
2. Photocopies of documentation from Franklin Hospital Medical Center, Valley Stream, New York, indicating that the applicant was treated by the emergency department on June 2, 2000;
3. Photocopies of envelopes addressed to the applicant, postmarked in 1998, 1999, and 2000;
4. Photocopies of receipts from Gigante Express, Inc., showing the applicant as consignee, dated October 1998 to April 2000; and,
5. A photocopy of an airline passenger receipt issued to the applicant, dated November 17, 1997.

On August 26, 2003, the director requested the applicant to submit evidence establishing his qualifying continuous residence and continuous physical presence in the United States during the requisite time periods. In response, the applicant submitted the following additional documentation:

6. A photocopy of an account statement from Franklin Hospital Medical Center, dated October 9, 2000;
7. Photocopies of envelopes addressed to the applicant, postmarked in 1998 and 2000;
8. Photocopies of receipts and correspondence from El Cairo Express, dated March 1998; and,
9. Photocopies of receipts from Gigante Express, Inc., dated December 1997 to January 1999.

The director determined that the applicant had failed to submit sufficient evidence to establish his qualifying continuous physical presence in the United States from March 9, 2001, to the date of filing his application on September 6, 2002. The director denied the application on January 15, 2004.

On appeal, the applicant resubmits photocopies of documentation previously submitted. He also submits the following two additional documents:

10. A photocopy of a receipt from AMA Furniture, Hempstead, New York, dated June 14, 1999; and,
11. A photocopy of a receipt from Family Furniture, Inc., Freeport, New York, dated February 8, 2000.

Based on a review of the record, it is concluded that the documentation submitted by the applicant is not sufficient to establish that he satisfies the continuous physical presence requirements described in 8 C.F.R. § 244.2(c). All of the documentation submitted by the applicant is dated prior to March 9, 2001. The applicant has submitted no evidence to establish his qualifying continuous physical presence in the United States from March 9, 2001, to the date of filing his TPS application on September 6, 2002. 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 failed to submit sufficient documentation to establish that he satisfies the continuous residence requirements described in 8 C.F.R. § 244.2(b). Furthermore, the applicant has not submitted an identity document bearing his photograph and/or fingerprint, as

required under the provisions of 8 C.F.R. § 299.9(a)(1)(ii) and (iii). The application may also 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.