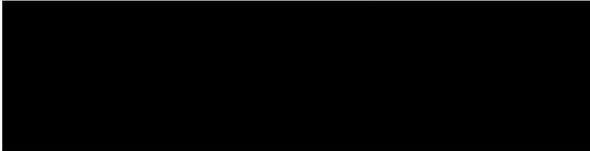




U.S. Citizenship
and Immigration
Services

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FILE:

[REDACTED]
[EAC 02 266 50628]

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 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 determined 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 a letter and additional documentation.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an applicant is eligible for TPS 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. The initial registration period for Salvadorans was from March 9, 2001, through September 9, 2002. 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 meets the above requirements. Applicants must 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 burden of proof the applicant must provide supporting documentary evidence of eligibility apart from his own statements. 8 C.F.R. § 244.9(b).

In support of his initial Form I-821, filed on August 16, 2002, the applicant submitted two affidavits from acquaintances attesting to his residence and physical presence in the United States.

On April 14, 2003, the director requested the applicant to submit additional evidence in support of his application. In response, the applicant submitted two additional affidavits from acquaintances.

The director determined that the documentation provided by the applicant was not sufficient to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite time periods. The director denied the application on August 22, 2003.

On appeal, the applicant submits an additional five affidavits from acquaintances. He also submits the following documentation:

1. Photocopies of envelopes from Urgente Express International Courier, Miami, Florida, mailed to him at his current New York address on August 23, 2002, and February 21, 2003;
2. Photocopies of Western Union receipts dated December 9, 2002; June 23, 2002; and, July 6, 2003;
3. Photocopies of receipts from Lucy's Fashion, Hempstead, New York, dated March 26, 2001, and May 15, 2002;
4. A photocopy of a receipt from Lore Frank, Inc., Hempstead, New York, dated February 5, 2003;
5. An employee letter from Tartan Textile Services, Inc. (TTSI), Hempstead, New York, stating that the applicant was employed from November 1, 2002, through March 22, 2003;
6. Photocopies of earnings statements from TTSI, dated November 7, 2002; November 21, 2002; and, November 27, 2002; and,
7. Photocopies of a 2002 Internal Revenue Service (IRS) Form 1040, U.S. Individual Income Tax Return, and 2002 IRS Form W-2, Wage and Tax Statement, indicating that the applicant earned \$1,849.30 working for TTSI, Inc.

The applicant claims to have continuously lived in the United States since December 29, 2000. It is reasonable to expect that he would have a variety of contemporaneous evidence to support this claim; however, no such evidence has been provided. The affidavits provided by the applicant from acquaintances are not, by themselves, persuasive evidence of qualifying continuous residence and continuous physical presence. All of the documentation submitted by the applicant (Nos. 1 through 7, above) is dated beyond the dates required to establish continuous residence and continuous physical presence. Simply going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. See *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972).

It is concluded that the documentation submitted by the applicant is not sufficient to establish that he satisfies the continuous residence and continuous physical presence requirements 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.