



U.S. Citizenship
and Immigration
Services

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FILE:



[WAC 01 227 53002]

OFFICE: CALIFORNIA SERVICE CENTER

DATE: **AUG 12 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, California Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The applicant claims to be 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 had failed to submit any evidence to show that he had continuously resided 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 alien 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 § 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.

The term *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 term *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.

Persons applying for TPS offered to El Salvadorans must demonstrate that they have continuously resided in the United States since February 13, 2001, and that they have been continuously physically present in the United States since March 9, 2001. 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 Department of Homeland Security, with validity 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 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 record shows that the applicant filed his TPS application on May 16, 2001. The director noted that the applicant failed to submit any evidence to establish that he had continuously resided in the United States since February 13, 2001, and denied the application on August 9, 2004.

On appeal, the applicant submits the following:

- (1) A copy of a generic receipt for payment of rent made on January 1, 2001, to an unknown individual.
- (2) A copy of a receipt from Mario's Legal Services for payment of \$450 "for TPS" dated April 16, 2001.
- (3) Copies of pay statements for [REDACTED] Social Security No [REDACTED] for periods ending October 29, 2000; November 26, 2000; December 29, 2000; February 2, 2001; and February 9, 2001.
- (4) A copy of a billing statement from "Dearden's" dated January 19, 2003.
- (5) A copy of a billing statement from Toyota Financial Services dated September 19, 2003.
- (6) Copies of two generic receipts dated March 20, 2004.
- (7) A copy of a letter from WFS Financial dated May 14, 2004.

The one generic rent receipt (No. 1 above) is not acceptable as it is not accompanied by a rental lease agreement. Additionally, the pay statements (No. 3 above) are under the name [REDACTED]. The applicant has not established that he and [REDACTED] are one and the same person. It is also noted that the Social Security Number listed on the pay statements is different from the applicant's claimed Social Security Number, [REDACTED]. The remaining evidence contained in the record only establishes the applicant's residence and physical presence since April 16, 2001, and after the date the TPS application was filed on May 16, 2001. The applicant

claimed to have lived in the United States since September 1999. It is reasonable to expect that the applicant would have some other type of contemporaneous evidence to support his claim; however, no such evidence has been provided.

The applicant has furnished insufficient evidence to establish that he has continuously resided in the United States since February 13, 2001, and as described in 8 C.F.R. § 244.2(c). Consequently, the director's decision to deny the application for this reason 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.