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**MM**

FILE: [REDACTED]  
[EAC 01 207 53771]

Office: VERMONT SERVICE CENTER

Date: **AUG 29 2005**

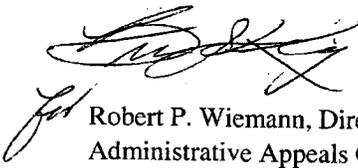
IN RE: Applicant: [REDACTED]

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

**DISCUSSION:** The application was denied by the Director, Vermont 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 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 additional documents to establish his continuous residence and continuous physical presence in the United States.

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 TPS only if such alien establishes that he or she:

- (a) Is a national of a 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 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.

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.

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. An extension of the TPS designation has been granted 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).

On November 3, 2003, the applicant was requested to submit evidence establishing his continuous residence since February 13, 2001, and physical presence since March 9, 2001, in the United States. The applicant, in response, provided the following documentation:

1. A copy of the applicant's apartment lease dated August 1, 2001 for the period from August 1, 2001 to July 31, 2002 from [REDACTED] for his apartment in Wyckoff, New Jersey.
2. Copies of the applicant's IRS W-2, Wage and Tax Statements for 2001 and 2002.
3. A copy of the applicant's automobile insurance statement for coverage from First Trent Indemnity Company for the policy period from August 15, 2002 to August 15, 2003 produced by Degise Agency Inc.
4. A copy of the applicant's November 2002 monthly gas and electric bill from PSE&G for a property in Wyckoff, New Jersey.
5. A copy of the applicant's New Jersey driver's license issued on October 14, 2003.

6. A copy of the application's New Jersey insurance identification card showing automobile coverage from First Trenton Indemnity Company effective August 15, 2003.
7. Copies of two New Jersey vehicle registration cards issued to the applicant for his 1989 Plymouth that were good through December 2003 and December 2004.

The director determined that the applicant had failed to submit sufficient evidence to establish his eligibility for TPS and denied the application on April 9, 2004.

On appeal, the applicant submits the following:

8. A letter from [REDACTED] dated April 20, 2004. Mr. [REDACTED] that he met the applicant in March 2001 and employed him in April 2001. Mr. [REDACTED] further states that prior to that, the applicant was working for another landscape company named Siestma in Midland Park.
9. Three cancelled checks written to the applicant from [REDACTED] dated April 11, 2001, April 18, 2001 and April 25, 2001.

The applicant has not submitted any evidence for the period from February 13, 2001 to April 10, 2001.

In this case, the employment letter from Mr. [REDACTED] has little evidentiary weight or probative value as it does not provide basic information that is expressly required by 8 C.F.R. § 244.9(a)(2)(i). Specifically, the letter is not in affidavit form and is not signed and attested to by the employer under penalty of perjury and does not provide the address where the applicant resided during the period of employment.

It is determined that the applicant has not submitted sufficient evidence to establish his continuous residence or continuous physical presence in the United States during the period from February 13, 2001, to April 11, 2001, the date a check from [REDACTED] was issued to him. He has, thereby, failed to establish that he has met the criteria described in 8 C.F.R. §§ 244.2(b) and (c). Consequently, the director's decision to deny the application for TPS 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.