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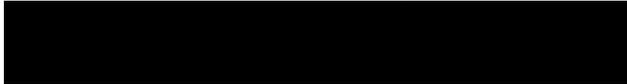
Office: VERMONT SERVICE CENTER

Date: **AUG 29 2005**

[EAC 03 247 52728]

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 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 that the applicant failed to establish he: 1) had continuously resided in the United States since February 13, 2001; 2) had been continuously physically present in the United States since March 9, 2001; and 3) was eligible for late registration. The director, therefore, denied the application.

On appeal, the applicant states that he has been in the United States since the initial registration period, but that he does not have a lot of records. The applicant also submits additional evidence in an attempt to establish continuous residence and continuous physical presence in the United States during the qualifying period.

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 as 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.

*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.

*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 entry on or prior to February 13, 2001, 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. Subsequent extensions of the TPS designation have been granted by the Secretary of the Department of Homeland Security, with the latest extension granted until September 9, 2006, upon the applicant's re-registration during the requisite time period.

The initial registration period for El Salvadorans was from March 9, 2001 through September 9, 2002. The record shows that the applicant filed this application on August 29, 2003.

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 first issue in this proceeding is whether the applicant is eligible for late registration.

The record of proceeding confirms that the applicant filed his application after the initial registration period had closed. To qualify for late registration, the applicant must provide evidence that during the initial registration period from March 9, 2001 through September 9, 2002, he fell within the provisions described in 8 C.F.R. § 244.2(f)(2) (listed above). If the qualifying condition or application has expired or been terminated, the individual must file within a 60-day period immediately following the expiration or termination of the qualifying condition in order to be considered for the late initial registration. 8 C.F.R. § 244.2(g).

On October 7, 2003, the applicant was provided the opportunity to submit evidence establishing his eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2). The applicant was also requested to submit evidence establishing his continuous residence in the United States since February 13, 2001, and his continuous physical presence in the United States from March 9, 2001, to the filing date of the application. The applicant, in response, provided a personal statement. The applicant also submitted evidence in an attempt to establish continuous

residence and continuous physical presence in the United States during the qualifying period. He did not present evidence of his eligibility for late registration. Therefore, the director denied the application.

On appeal, the applicant states that he has been in the United States since he was 16-years-old, but that he does not have a lot of records to support this claim. According to the applicant, his father is eligible for TPS, and he may be eligible as well. The applicant submits a copy of his father's TPS approval notice issued on January 9, 2002. Consequently, the applicant, who was only 16-years old during the initial registration period, has established his eligibility for late registration as the son of a TPS-eligible alien. Consequently, the director's conclusion that the applicant failed to establish his eligibility for late registration will be withdrawn.

The second and third issues in this proceeding are whether the applicant has established his continuous residence in the United States since February 13, 2001, and his continuous physical presence in the United States since March 9, 2001.

As stated above, the applicant was requested on October 7, 2003 to submit evidence establishing his qualifying continuous residence and continuous physical presence in the United States. In response, the applicant submitted the following documentation:

1. A personal statement.
2. Copies of receipts from Maritza Boutique, Plainfield, New Jersey dated February 1, 2001, from AT&T dated February 1, 2001, and a T-Mobile activation form dated April 1, 2001.
3. A copy of his passport issued on October 24, 2003 in New York, New York and a copy of his birth certificate, without English translation.
4. Statements from [REDACTED] owner of Maritza Boutique.

In his statement, the applicant says that he has lived in the United States since the initial registration period. According to the applicant, he did not apply for TPS at that time because he was young and he was told that young people could not apply. The receipts and activation form indicate the applicant was in the United States on those specific dates, and the passport indicates the applicant was in this country subsequent to the qualifying dates to establish continuous residence and continuous physical presence. However, these documents do not establish the applicant's continuous residence since February 13, 2001, and his continuous physical presence in the United States from March 9, 2001 to the date of filing the TPS application.

Mr. [REDACTED] states that he has rented an apartment to the applicant and his father since 2000. Ms. [REDACTED] states that the applicant and his father have been her customers since January 1, 2001. However, Mr. [REDACTED] statement is not supported by any corroborative evidence. Ms. [REDACTED] statement is supported by one receipt, dated prior to the dates to establish continuous residence and continuous physical presence, but no other corroborative evidence. It is reasonable to expect that the applicant would have more contemporaneous evidence to support these assertions; however, no such evidence has been provided. Affidavits are not, by themselves, persuasive evidence of residence or physical presence.

The director concluded that the applicant had failed to establish his qualifying residence and physical presence in the United States during the requisite periods and denied the application. On appeal, the applicant submits:

1. A personal statement.
2. A copy of the unsigned first page of a 2001 Internal Revenue Service (IRS) Form 1040EZ and accompanying IRS Form W-2 Wage and Tax Statement for the applicant's father.
3. A copy of an Executive Cellular Phones, Inc. invoice dated November 14, 2001.
4. A copy of the TPS approval notice of the applicant's father dated January 9, 2002.

The applicant also resubmits evidence previously provided.

In his statement, the applicant states that he was in the United States during the initial registration period, but he was only 16-years old and does not have a lot of records. The tax forms relate to the applicant's father and therefore have no probative value for establishing the applicant's TPS eligibility. The invoice was issued subsequent to the qualifying periods to establish continuous residence and continuous physical presence, and may or not be related to the applicant. The significance of the TPS approval notice was discussed previously. While the child of an eligible TPS registrant is eligible to submit a late initial registration, the child is still required to meet the continuous residence and continuous physical presence requirements as provided in 8 C.F.R. §§ 244.2(b) and (c). The applicant has not provided any evidence of his presence in the United States from April 1, 2001 to October 24, 2003.

The applicant has not submitted sufficient evidence to establish his qualifying residence since February 13, 2001, and his continuous physical presence in the United States since March 9, 2001. He has, therefore, 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 temporary protected status on these grounds will also 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.