

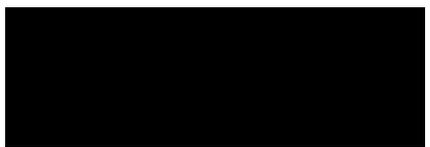
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U.S. Department of Homeland Security
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Washington, DC 20529



U.S. Citizenship and Immigration Services



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FILE: [Redacted] Office: CALIFORNIA SERVICE CENTER Date: FEB 15 2005
[WAC 02 190 55353]

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
Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, California Service Center. A motion to reopen, filed by the applicant, was granted by the director and it is now before the Administrative Appeals Office on appeal. The case will be remanded to the director for further action.

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 had: 1) continuously resided in the United States since February 13, 2001; and 2) been continuously physically present in the United States since March 9, 2001. The director, therefore, denied the application.

On appeal, the applicant asserts that he has responded to the request for additional evidence. The applicant also submitted additional evidence in an attempt to establish continuous residence and continuous physical presence during the qualifying periods.

On October 4, 2002, the applicant was provided the opportunity to submit evidence establishing continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States from March 9, 2001, to the filing of the application. The applicant was also requested to submit a photo identity document. The applicant, in response, provided copies of an El Salvadoran identity card and Pacific Bell telephone bills.

On December 18, 2002, the applicant was informed of the director's intention to deny the application and was again provided the opportunity to submit evidence establishing continuous residence since February 13, 2001, and continuous physical presence from March 9, 2001, to the date of filing of the application. The applicant, in response, provided copies of hand-written rent receipts dated from January 1, 2001. The director determined that the applicant had failed to establish continuous residence and continuous physical presence during the qualifying period and denied the application on February 27, 2003.

On appeal, received on March 24, 2003, the applicant provided copies of additional rent receipts, Pacific Bell telephone bills, a copy of a money transfer receipt and a copy of a stamped envelope. On May 29, 2003, the director issued another notice of intent to deny requesting that the applicant submit original documents to establish his continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States from March 9, 2001, to the date of filing the application. The applicant subsequently filed a TPS re-registration on June 30, 2003.

The record indicates that the applicant has not overcome the director's findings. However, the record does not contain a decision subsequent to the issuance of the May 29, 2003, notice of intent to deny. That notice must now still be addressed. According to 8 C.F.R. § 244.10(c):

The decision of the director to deny Temporary Protected Status...shall be in writing served in person or by mail to the alien's most recent address provided to the Service and shall state the reason(s) for the denial. Except as otherwise provided in this section, the alien shall be given written notice of his or her right to appeal a decision denying Temporary Protected Status.

The case is remanded for the purpose of a written decision which fully addresses the evidence after the issuance of the notice dated May 29, 2003. As always in these proceedings, the burden of proof rests solely with the applicant. Section 291 of the Act, 8 U.S.C. §1361.

ORDER: The case is remanded to the director for further action consistent with the above and entry of a decision.