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FILE:



Office: VERMONT SERVICE CENTER

Date: JUL 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 initially denied by the Director, Vermont Service Center. The Director granted applicant's motion to reopen, but subsequently denied the application. The case 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 denied the application because the applicant failed to establish that he had continuously resided in the United States since February 13, 2001.

On appeal, the applicant asserts his claim of eligibility for TPS.

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 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. 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 January 12, 2004, the applicant was requested to submit evidence establishing his continuous residence since February 13, 2001 in the United States. The applicant, in response, provided the following documentation:

1. A copy of the applicant's El Salvadoran passport issued to him in Washington, DC, on April 20, 2001;
2. A copy of the applicant's Virginia Identification Card issued to him on May 21, 2001;
3. A copy of a receipt from [REDACTED] dated January 31, 2000, bearing the name of [REDACTED] as sender, with a [REDACTED] as the sender's address;
4. A copy of the applicant's IRS Form W-2, Wage and Tax Statement for the year 2001;
5. A copy of the applicant's IRS Form 1040EZ, Income Tax Return for Single and Joint Filers with No Dependents for the year 2001; and
6. Copies of pay stubs from [REDACTED] inc. bearing the applicant's name and Social Security number and dated from September 17, 2001 to December 23, 2001.

The director determined that the applicant had submit sufficient evidence to establish continuous physical presence in the United States since March 9, 2001, but that he had failed to submit sufficient evidence to establish continuous residency in the United States since February 13, 2001 and denied the application on March 16, 2004.

On appeal, the applicant reasserts his claim of eligibility for TPS and submits the following documentation:

7. A copy of an IRS Tax Notice for the tax period December 31, 2001, bearing the applicant's name and address of [REDACTED], Washington, DC; and,

8. Copies of seven Western Union money transfer receipts bearing the applicant's name and dated May 11, 2001 to November 7, 2001.

The applicant has not submitted sufficient evidence to establish his qualifying continuous residence in the United States during the period from February 13, 2001, to July 27, 2001. Although the applicant submitted a money order receipt (No. 3 above), there has been no other corroborative evidence submitted to support that evidence. While 8 C.F.R. § 244.9(a)(2)(vi) specifically states that additional documents such as money order receipts “may” be accepted in support of the applicant’s claim, the regulations do not suggest that such evidence alone is necessarily sufficient to establish the applicant’s qualifying residence or physical presence in the United States. The applicant claims to have lived in the United States since July 10, 1998. It is reasonable to expect that the applicant would have some other type of contemporaneous evidence to support these receipts; however, no such evidence has been provided. The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. 8 C.F.R. § 244.9(b).

It is determined that the other documentation submitted by the applicant is not sufficient to establish that he satisfies the continuous residency requirement described in 8 C.F.R. § 244.2(c). Although the other evidence is dated in 2001, it is insufficient to demonstrate the applicant's continuous residency since February 13, 2001. Consequently, the director's decision to deny the application for temporary protected status will be affirmed.

An alien applying for TPS 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.