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U.S. Department of Homeland Security  
20 Mass. Ave., N.W., Rm. A3042  
Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

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FILE: [REDACTED]  
[EAC 02 201 50475]

Office: VERMONT SERVICE CENTER

Date: JUN 08 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 on appeal before the Administrative Appeals Office (AAO). 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 his qualifying continuous residence in the United States since February 13, 2001, and continuous physical presence since March 9, 2001.

On appeal, the applicant submits a brief statement and additional documentation.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an applicant is eligible for TPS 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 § 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.

- (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.

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.

The phrase brief, casual, and innocent absence, as defined in 8 C.F.R. § 244.1, means a departure from the United States that satisfies the following criteria:

- (1) Each such absence was of short duration and reasonably calculated to accomplish the purpose(s) for the absence;
- (2) The absence was not the result of an order of deportation, an order of voluntary departure, or an administrative grant of voluntary departure without the institution of deportation proceedings; and
- (3) The purposes for the absence from the United States or actions while outside of the United States were not contrary to law.

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. The initial registration period for Salvadorans was from March 9, 2001, through September 9, 2002. 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 granted 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 meets the above requirements. Applicants must submit all documentation as required in the instructions or requested by 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 burden of proof the applicant must provide supporting documentary evidence of eligibility apart from his own statements. 8 C.F.R. § 244.9(b).

The applicant properly filed his initial TPS application on May 22, 2002. In support of his application, the applicant submitted the following documentation;

1. A photocopy of his El Salvadoran birth certificate, with English translation;
2. A photocopy of his El Salvadoran Personal Identification Card (*cedula*);
3. A photocopy of the identification page from his El Salvadoran passport, issued in Washington, D.C., on January 22, 2002; and,
4. Three affidavits from acquaintances attesting to his continuous physical presence in the United States since February 13, 2001.

On July 28, 2003, the applicant was requested to submit evidence to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite time periods. The applicant was specifically advised that such evidence may include, but was not limited to: employment or school records; rent, mortgage, or medical payment receipts; bank account or insurance documents; medical or utility bills; or other similar materials. The record reflects that the applicant failed to respond to the director's request.

The director determined that the applicant had failed to establish his eligibility for TPS and denied the application on October 6, 2003.

On appeal, the applicant states that he does not have evidence such as medical bills, school records, and/or utility bills because he has always shared apartments with other persons. In support of his appeal, the applicant submits the following additional documentation:

5. A letter, with English translation, dated October 30, 2003, from a financial cooperative in El Salvador, stating that the applicant is a member of the cooperative's Family Remittances Program. The letter further states that the cooperative has received an average of \$400 per month, which is delivered to the applicant's family according to his instruction; and,
6. A letter, with English translation, dated May 15, 2002, from [REDACTED], in El Salvador, stating that the applicant has been sending money transfers for the support of his wife and father "for a few years," in amounts of up to \$600 per month.

The applicant claims to have continuously lived in the United States since February 25, 1999. It is reasonable to expect that he would have a variety of credible, contemporaneous evidence to support this claim. Affidavits from acquaintances (No. 4, above) are not, by themselves, persuasive evidence of qualifying continuous residence and continuous physical presence. The applicant's claim that he cannot provide medical bills or school records because he shared an apartment with others is also not persuasive, as such documents are not dependent on one's living arrangements. The letters (Nos. 5 and 6) have little probative value as they

were issued abroad and are not supported by corroborative evidence, such as money transfer receipts and/or bank records issued in this country. Furthermore, there are discrepancies noted in the evidence presented pertaining to the applicant's marital status. On his TPS application, the applicant claimed to be single; however, No. 6 indicates that he is married. These discrepancies have not been explained and call into question the applicant's ability to document the requirements under the statute and regulations. Doubt cast on any aspect of the evidence as submitted may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. It is incumbent on the petitioner to resolve any inconsistencies in the record by independent objective evidence; any attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582. (Comm. 1988).

It is concluded that the documentation submitted by the applicant is not sufficient to establish that he satisfies the continuous residence and continuous physical presence requirements described in 8 C.F.R. §§ 244.2(b) and (c). Consequently, the director's decision to deny the application for temporary protected status 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.