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



U.S. Citizenship  
and Immigration  
Services

M1

[REDACTED]

FILE:

[REDACTED]  
[EAC 03 019 51180]

Office: Vermont Service Center

Date: MAY 05 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:

[REDACTED]

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 respond to a request for evidence to establish his continuous residence and continuous physical presence in the United States during the requisite periods, and to establish his eligibility for TPS late registration. Therefore, the grounds of denial had not been overcome.

On appeal, counsel, on behalf of the applicant, asserts his eligibility for TPS and submits additional evidence in support of his claim.

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 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. A subsequent extension of the TPS designation has been granted by the Secretary of the Department of Homeland Security, with validity until September 9, 2006, upon the applicant's re-registration during the requisite time period. The record reveals that the applicant filed his application with the Immigration and Naturalization Service, now Citizenship and Immigration Services (CIS), on September 11, 2002, after the initial registration period had closed.

To qualify for late registration, the applicant must provide evidence that during the initial registration period, she was either in a valid immigration status, had an application pending for relief from removal, was a parolee, or was the spouse or child of an alien currently eligible to be a TPS registrant, and she had filed an application for late registration within 60 days of the expiration or termination of the conditions described in 8 C.F.R. § 244.2(f)(2).

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 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 record reflects that the applicant submitted his initial TPS application on September 11, 2002. He stated on the TPS application that he entered the United States in 1999; however, he did not submit any evidence in support of his claim of continuous residence and continuous physical presence in the United States during the requisite period.

On February 24, 2003, the applicant was requested to submit evidence to establish 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 as of February 13, 2001, and continuous physical presence in the United States from March 9, 2001, to the date of filing his application. On November 19, 2003, the director denied the application because he determined the record did not contain a response from the applicant, and thus, the grounds for denial had not been overcome.

On appeal, counsel, on behalf of the applicant, states that the applicant did, in fact, respond to the director's request. Counsel also states that the applicant submitted three rent receipts dated January 5, 2001, February 5, 2001, and March 5, 2001, in support of his eligibility for TPS. Counsel provides copies of the same three rent receipts. Counsel asserts that this evidence clearly shows that the applicant has established his residence and physical presence in the United States during the requisite time period for El Salvador TPS.

A review of the record reflects that on March 19, 2003, the applicant responded to the director's February 24, 2003 request, and he submitted the following documentation: copies of three hand-written rent receipts dated January 5, 2001, February 5, 2001, and March 5, 2001; a church letter dated March 11, 2003, from Reverend [REDACTED] of the [REDACTED] in Long Branch, New Jersey, who stated that the applicant has participated at his church; and a letter dated March 4, 2003, from Dr. [REDACTED] who stated that the applicant has been a patient of his since June 18, 2002. The applicant, in response, submitted evidence in an attempt to establish his continuous residence and continuous physical presence in the United States during the requisite time periods; however, the applicant did not submit any evidence to establish his eligibility for TPS late registration. The director denied the application on November 19, 2003, because the grounds for denial had not been overcome.

The copies of rent receipts provided by the applicant are not supported by any other corroborative evidence. While 8 C.F.R. § 244.9(a)(2)(vi) specifically states that additional documents such as rent 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 continuous residence and continuous physical presence in the United States. The applicant claims to have lived in the United States since 1999. The rent receipts only covered three months of his claimed residence in the United States. It is reasonable to expect that the applicant would have some other type of contemporaneous evidence to support his claimed continuous residence and continuous presence in the United States during the requisite time periods. The March 11, 2003 letter from Reverend [REDACTED] does not state how long the applicant has been an active participant in his church. In addition, the letter from Dr. [REDACTED] indicates that the applicant has been a patient of his since June 18, 2002; however, this date falls more than one and one-half years after the commencement of the time periods for continuous residence and continuous physical presence in the United States. The applicant has not submitted any evidence for the period from March 6, 2001 through June 17, 2002. 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 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).

The second issue in this proceeding is whether the applicant is eligible for late registration. The record of proceedings confirms that the applicant filed his application after the initial registration period had closed. The initial registration period for Salvadorans was from March 9, 2001, through September 9, 2002. To qualify for late registration, the applicant must provide evidence that during the initial registration period, he was either in a valid immigration status, had an application pending for relief from removal, was a parolee, or was the spouse or child of an alien currently eligible to be a TPS registrant, and he had filed an application for late registration within 60 days of the expiration or termination of the conditions described in 8 C.F.R. § 244.2(f)(2). The applicant has not submitted any evidence, whether in response to the director's February 24, 2003 request, or through counsel, on appeal, in support of his eligibility for TPS late registration. The applicant has, thereby, failed to establish that he has met the criteria described in 8 C.F.R. § 244.2 (f)(2). Consequently, the director's decision to deny the application for TPS 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.