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U.S. Citizenship  
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FILE: [REDACTED]  
[EAC 01-234 52611]

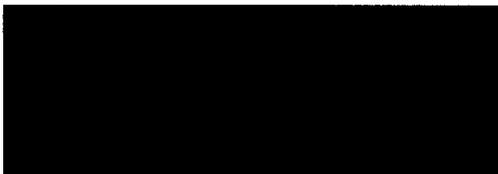
Office: VERMONT SERVICE CENTER

Date: MAY 10 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:



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 (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 determined the applicant failed to establish that he had continuously resided in the United States since February 13, 2001, and had been continuously physically present in the United States since March 9, 2001.

On appeal, counsel for 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. 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 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 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 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 record reveals that the applicant filed his initial Form I-821, Application for Temporary Protected Status, with the Immigration and Naturalization Service (INS), now CIS, on July 25, 2001. At the time of filing his Form I-821, the applicant indicated that he had last entered the United States without inspection on March 22, 1993. In support of the applicant's initial Form I-821, counsel submitted the following documentation:

1. Partially illegible photocopies of pages from the applicant's El Salvadoran passport, which appears to have been issued in El Salvador on February 11, 1993;
2. A photocopy of the applicant's El Salvadoran birth certificate, with English translation; and,
3. Photocopies of certificates for having participated in English as a Second Language (ESL) programs, issued to the applicant on July 31, 1993; April 13, 1995; and December 15, 1996.

On February 11, 2003, the applicant was requested, through counsel to submit evidence to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite time periods. In response, counsel submitted the following:

4. Photocopies of the applicant's account holder transactions from the [REDACTED] dated November 19, 2001; and December 10, 2001;
5. A photocopy of a letter, dated March 6, 2003, from the coordinator of the Everett Literacy Program, Everett, Massachusetts, stating that the applicant had been a student since September 2001; and,
6. A photocopy of an unsigned letter, dated March 4, 2003, from the pastor of St. Rose Rectory, Chelsea, Massachusetts, stating that the applicant has been a parishioner since December 2000.

The director determined that the documentation provided was not sufficient to establish the applicant's qualifying continuous residence and continuous physical presence in the United States during the requisite time periods. The director denied the application on August 27, 2003.

On appeal, counsel submits the originals of Nos. 5 and 6, above, as well as the following additional documentation:

7. A photocopy of a Request for Asylum in the United States, signed by the applicant on December 8, 1994;
8. A letter, issued on July 10, 2001, from the Criminal History Systems Board, a repository for criminal records in the Commonwealth of Massachusetts, stating that the applicant has no adult criminal court appearances;
9. Photocopies of INS correspondence to the applicant; dated July 30, 2001 and August 15, 2001; and,
10. A second letter, dated September 5, 2003, from the coordinator of the of the Everett Literacy Program, stating that the applicant applied for classes in September 2000, but had to wait one year to attend because of long waiting lists.

The documentation contained in Nos. 3 and 7, above, is all dated more than four years prior to the dates required to establish qualifying continuous residence and continuous physical presence in the United States. Similarly, the documentation in Nos. 4, 5, 8, and 9, is all dated after the applicant's submission of his Form I-821. The letter from [REDACTED] (No. 6) has little evidentiary weight or probative value as it does not provide basic information that is expressly required by 8 C.F.R. § 244.9(a)(2)(v). Specifically, is not signed by a church official, does not establish how the attestor knows the applicant, and does not establish the origin of the information being attested to. The applicant has not submitted any evidence to establish his residence and physical presence in the United States from September 2000 to the date of filing his TPS application on July 25, 2001. Simply going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. See *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972).

Based on a review of the record, 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.