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U.S. Citizenship  
and Immigration  
Services

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MM



FILE: [REDACTED]  
[EAC 01 199 50150]

Office: VERMONT SERVICE CENTER

Date: NOV 07 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 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 establish continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States since March 9, 2001.

On appeal, the applicant submits a statement and additional evidence. He indicates that additional evidence would be submitted within 30 days. To date, no such evidence has been received. Therefore, the record will be considered complete.

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 temporary protected status 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.

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. On July 9, 2002, the Attorney General announced an extension of the TPS designation until September 9, 2003. Subsequent extensions of the TPS designation has been granted, with the latest extension granted until September 9, 2006, upon the applicant's re-registration during the requisite time period.

The initial registration period for Salvadorans was from March 9, 2001 to September 9, 2002. The record reveals that the applicant filed his Form I-821, Application for Temporary Protected Status, with the Immigration and Naturalization Service, Citizenship and Immigration Services (CIS), on May 9, 2001.

The burden of proof is upon the applicant to establish that he 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 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 indicated on the Form I-821 that he first entered the United States on July 28, 1999. In support of his application, the applicant submitted:

1. a photocopy of an untranslated letter in the Spanish language dated September 20, 1999.

On March 10, 2004, the applicant was requested to submit evidence establishing his qualifying continuous residence and continuous physical presence in the United States during the requisite time periods. The record does not contain a response from the applicant.

The director determined that the applicant had failed to submit sufficient evidence to establish his continuous residence and continuous physical presence in the United States during the requisite periods and denied the application on August 11, 2004.

On appeal, the applicant states that it is difficult to come to a county not speaking the language and open bank accounts or obtain insurance policies that would provide him with contemporaneous documents to establish his qualifying continuous residence and continuous physical presence in this country. He submits the following:

2. photocopies of two generic rent receipts dated March 12, 2001 and July 27, 2001;
3. a photocopy of a cash receipt from Medical Care of Boston, Boston, Massachusetts, dated August 22, 2001;
4. photocopies of his 2001 and 2002 Internal Revenue Service (IRS) Forms W-2, Wage and Tax Statement, from ██████████ Norfolk, Massachusetts; and,
5. a photocopy of an earnings statement from ██████████, ██████████ in Norfolk, Massachusetts, for the pay period from December 17, 2001 to December 23, 2001.

Pursuant to 8 C.F.R. § 103.2(b)(3), any document containing foreign language submitted to CIS must be accompanied by a full English language translation that the translator has certified as complete and accurate, and by the translator's certification that he or she is competent to translate from the foreign language into English. The untranslated letter (No. 1 above) cannot be accepted as evidence to establish residence and physical presence in the United States because it has not been translated into English. Further, in the absence of the postmarked envelope in which the letter was mailed, addressed to the applicant in the United States, the date that appears on the letter does not establish the applicant's residence or physical presence in the United States during the requisite periods.

The cash receipt from Medical Care of Boston (No. 3 above) and the ██████████ earnings statement (No. 5 above) are dated after the requisite periods to establish continuous residence and continuous physical presence in the United States. The applicant's 2001 and 2002 IRS Forms W-2 (No. 4 above) reflect the applicant's residence and physical presence in the United States at some time during these years, but they do not provide any information as to the applicant's exact dates of residence and physical presence, and they are not supported by earnings statements dated during the requisite periods to establish continuous residence and continuous physical presence in the United States.

The photocopies of generic rent receipts (No. 2 above) are not supported by sufficient corroborative evidence. While 8 C.F.R. § 244.9(a)(2)(vi) specifically states that additional documents such as generic 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 residence or physical presence in the United States. The applicant claims to have lived in the United States since July 28, 1999. It is reasonable to expect that the applicant would have other contemporaneous evidence to support these rent 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 documentation submitted by the applicant is not sufficient to establish that he satisfies the residence and 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.

The application will be denied for the above stated reasons, with each considered as an independent and alternative basis for denial. 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.