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**U.S. Citizenship
and Immigration
Services**

MI

FILE:

[REDACTED]

Office: VERMONT SERVICE CENTER

Date: **NOV 18 2005**

[EAC 02 286 52470]

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 (VSC), 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 denied the application because the applicant failed to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite time periods.

On appeal, the applicant submits an additional document.

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.

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 El 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, with the latest extension valid 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 applicant filed his initial Form I-821, Application for Temporary Protected Status, on September 7, 2002. In support of his application, the applicant submitted evidence of his nationality and identity, as well as the following:

1. An affidavit, dated August 21, 2002, from [REDACTED] Newark, New Jersey, stating that the applicant had lived in her home from 1998 to 2000.

On July 20, 2004, the director requested the applicant to submit evidence establishing his qualifying continuous residence and continuous physical presence in the United States during the requisite time periods. The applicant

was informed that such evidence may include, but was not limited to, employment or school records, rent/mortgage payment receipts, bank or insurance documents, medical or utility bills, or other similar materials. In response, the applicant submitted:

2. An affidavit, dated August 9, 2004, from [REDACTED] stating that he had rented an apartment to the applicant in Newark, New Jersey, since January 2000; and,
3. A letter, dated August 9, 2004 from [REDACTED] general manager of the Statehouse Produce Co., Newark, New Jersey, stating that the applicant had been employed by the company as a driver since September 11, 2000.

The director determined that the applicant had not submitted sufficient evidence to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite time periods and denied the application on October 6, 2004.

On appeal, the applicant submits the following additional documentation:

4. An affidavit, dated October 13, 2004, from [REDACTED] (see No. 3, above) stating that the applicant had been employed as a full-time forklift driver, and has no record of any layoffs, since September 11, 2000.

The applicant claims to have lived in the United States since August 2, 1998. It is reasonable to expect that he would have a variety of contemporaneous evidence to support this claim. Affidavits and letters from landlords and an employer are not, by themselves, persuasive evidence of qualifying continuous residence and continuous physical presence. The applicant has not submitted any objective documentation (such as employee earnings statements, company payroll records, a lease agreement, lease payment receipts, utility bills, etc.) to corroborate the information provided in the letters and affidavits.

Based on a review of the record, it is concluded that the applicant has not submitted sufficient evidence 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 these reasons 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.