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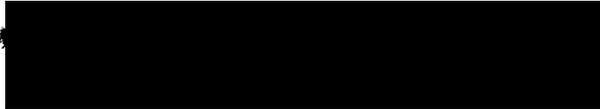
Office: VERMONT SERVICE CENTER

Date: **OCT 03 2005**

[EAC 03 260 54786]

IN RE:

Applicant:



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 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, the applicant states that he is eligible for late submission based upon his mother's case as she is currently eligible to be a TPS registrant. The applicant further states that he did not receive the Notice of Intent Notification referred to by the director. The applicant indicates that he has already submitted four affidavits as evidence and forwards further documentation to establish his continuous residence and continuous physical presence in this country.

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 TPS only if such alien establishes that he or she:

- (a) Is a national of a 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 section 244.3;
- (e) Is not ineligible under 8 C.F.R. § 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.

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. An extension of the TPS designation has been granted 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 or she 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 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).

Upon initial submission, the applicant submitted the following documentation.

1. A copy of the applicant's Republic of El Salvador passport issued on August 19, 2003 in Washington, D.C.
2. An affidavit dated September 11, 2003 from his mother who states that she entered the United States without inspection on November 24, 2000 with her son.
3. An affidavit dated September 1, 2003 from [REDACTED] the president of [REDACTED] [REDACTED] in Silver Spring, Maryland who states that the applicant has been working for his company on a part time basis since on or around January 2, 2001.
4. An affidavit dated September 1, 2003 from [REDACTED] who states that he has known the applicant since around January 2001 when he performed some work at his home in Washington, DC.

5. An affidavit dated September 1, 2003 from [REDACTED] who states that she knew the applicant's family in El Salvador since around 1980 and that she knew the applicant since around January or February of 2001 in Washington, DC.
6. An affidavit dated September 1, 2003 from [REDACTED] who states that he knew the applicant's family in El Salvador since around 1985 and that he knew the applicant since on or around early 2001 in Washington, DC.
7. An affidavit dated September 9 from [REDACTED] who states that he knew the applicant since around January 2001 in Washington, DC.

On March 3, 2004, the applicant was requested to submit evidence establishing his residence since February 13, 2001, and physical presence since March 9, 2001, in the United States. The applicant did not respond to that request.

The director determined that the applicant had failed to submit sufficient evidence to establish his eligibility for TPS and denied the application on June 17, 2004. On appeal, the applicant submitted the following additional documents:

8. A letter dated July 1, 2004 from [REDACTED] the president of [REDACTED] in Silver Spring, Maryland who confirms his previous statement with respect to the applicant. He states that on or around January 2001 Mr. [REDACTED] applied for a job in his company and that the applicant worked for his company on a part time basis during 2001. He further states he was unable to offer him a full time job or more stable part time employment because the applicant didn't have a working permit.
9. An affidavit dated July 9, 2004 from [REDACTED] the applicant's aunt, who states that she provided some economic support to him after he arrived in the District of Columbia in the winter of 2000-2001 from El Salvador.

Affidavits from acquaintances and family members (Items #2, #5, #6, #7, and #9) are not, by themselves, persuasive evidence of residence or physical presence. In addition, the employment affidavit (Item #3) and letter (Item #8) have little evidentiary weight or probative value as they do not provide basic information that is expressly required by 8 C.F.R. § 244.9(a)(2)(i). Specifically, neither document provides the address where the applicant resided during the period of his employment and the letter is not signed and attested to by the employer under penalty of perjury. The applicant claims to have resided in the United States since November 24, 2000. It is reasonable to expect that he would have some contemporaneous evidence to support his claim.

The applicant has not submitted sufficient evidence to establish his qualifying continuous residence or continuous physical presence in the United States during the period from on or before February 13, 2001, to August 19, 2003, the date his passport was issued to him in Washington, D.C. He has, thereby, failed to establish that he has met the criteria described in 8 C.F.R. §§ 244.2(b) and (c). Consequently, the director's decision to deny the application for TPS 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 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.