



U.S. Citizenship  
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FILE: [REDACTED]  
[EAC 03 049 51444]

Office: VERMONT SERVICE CENTER

Date: OCT 06 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 on appeal before the Administrative Appeals Office (AAO). The appeal will be dismissed.

The applicant claims to be a 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 a letter 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.

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.

To qualify for late registration, the applicant must provide evidence that during the initial registration period he fell within at least one of the provisions described in 8 C.F.R. § 244.2(f)(2) above.

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).

On his initial Form I-821, Application for Temporary Protected Status, filed on September 10, 2002, the applicant indicated that he had last entered the United States without inspection in May 1984. In support of the application, the applicant submitted:

1. An abstract of his El Salvadoran birth certificate, with English translation;
2. A photocopy of a "Virginia Identification Card," issued on February 24, 2000;

3. A photocopy of his Social Security card, number [REDACTED]
4. A photocopy of a Virginia Department of Motor Vehicles compliance summary, dated October 3, 2001;
5. A photocopy of a 1993 Form 1099-G from the Virginia Employment Commission; and,
6. Documentation indicating that the applicant was under immigration proceedings in 1998.

In connection with his application, the applicant was required to appear for fingerprinting. As a result of being fingerprinted, CIS received a report indicating that the applicant had been arrested on August 3, 1987, in Arlington County, Virginia, and charged with Robbery.

On July 28, 2003, 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 director also requested the applicant to submit evidence of the final court disposition of his arrest, and if, convicted, the classification of the conviction. In response, the applicant submitted:

7. A photocopy of a 2000 Internal Revenue Service (IRS) Form W-2, Wage and Tax Statement; Form 1040EZ, Income Tax Return for Single and Joint Filers With No Dependents; and, Form 760, Virginia Resident Individual Tax Return;
8. Photocopies of earnings statements, dated June and July 2000; and,
9. A letter, dated September 11, 2003, stating that the Arlington General District Court is unable to comply with the applicant's (unspecified) request because records are destroyed after 10 years.

The director determined that the applicant had not submitted sufficient evidence to establish his eligibility for TPS and denied the application on February 4, 2004.

On appeal, the applicant submits the following additional documentation:

10. A photocopy of a receipt, dated February 1, 2001;
11. Photocopies of un-translated documents in Spanish, which the applicant states are cellular Sprint bills dated January to September 2002; and,
12. A photocopy of an unsigned letter, dated March 3, 2004, from the owner of Bernal Painting and Cleaning (with no address noted), stating that the applicant was employed in February and March 2001, and continues to be employed by the company.

The applicant claims to have continuously resided, and have been continuously physically present, in the United States from May 1984, to the date of filing his TPS application on September 10, 2002. It is reasonable to expect that he would have a variety of contemporaneous evidence to support this claim.

The employment letter submitted on appeal 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)(i). Specifically, it is not in the form of an affidavit, and does not provide the address of the company, the address where the applicant resided during the period of his employment, the exact period(s) of employment, the period(s) of layoff (if any), and

the applicant's specific duties with the company. Furthermore, it is not supported by objective evidence such as earnings statements and/or employee records. The remaining documentation submitted is dated prior to or after the dates required to establish qualifying continuous residence and continuous physical presence.

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). Furthermore, the applicant has failed to submit a final court disposition of his arrest and the classification of the conviction, if any. Consequently, the director's decision to deny the application for temporary protected status will be affirmed.

It is noted that, beyond the decision of the director, the applicant submitted his TPS application after the initial registration period had ended. The applicant has not submitted any evidence to establish that he has met any of the criteria for late registration described in 8 C.F.R. § 244.2(f)(2). The applicant also has not submitted an identity document bearing his photograph and/or fingerprint, as required under the provisions of 8 C.F.R. § 299.9(a)(1)(ii) and (iii). The application must also be denied for these reasons.

It is further noted that the applicant admits to having been arrested in 1992 for Driving While Intoxicated and Driving Without a License. The final court dispositions of those arrests also are not contained in the record.

Finally, it is noted that an immigration judge denied the applicant's application for suspension of deportation on April 9, 1999, and granted the applicant voluntary departure to Spain or El Salvador on or before June 8, 1999.

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.