

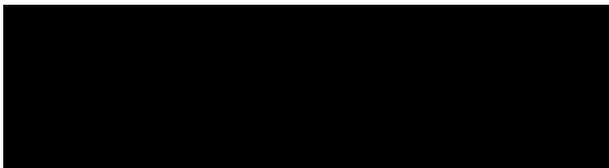
**PUBLIC COPY**

U.S. Department of Homeland Security  
20 Mass. Ave., N.W., Rm. A3042  
Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

**identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy**



MI

FILE: [REDACTED]  
[EAC 01 208 50010]

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:  
[REDACTED]

**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 denied the application because the applicant failed to establish his qualifying continuous physical presence in the United States during the requisite time period.

On appeal, counsel for the applicant submits a brief 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. 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 granted 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).

In support of his initial application, the applicant submitted the following:

1. Photocopies of pages from his El Salvadoran passport;
2. A photocopy of his El Salvadoran birth certificate, with English translation; and,
3. A photocopy of an "Identity Card" card, issued on December 20, 2000.

On October 29, 2002, and again on April 28, 2003, the director requested the applicant to submit evidence to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite time periods. In response, the applicant submitted:

4. A letter, dated May 15, 2003, from The Flooring Group, Inc., Herndon, Virginia, stating that the applicant had been employed from March 2000 to June 2001;
5. Letters, dated November 4, 2002, from an acquaintance and the applicant's brother, stating that the applicant came to the United States from El Salvador in February 2000.

The director concluded that the applicant had failed to establish his qualifying continuous physical presence in the United States during the requisite time period and denied the application on April 27, 2004.

On appeal, counsel for the applicant submits the following additional documentation:

6. Transcripts of the applicant's 2001, 2002, and 2003 Internal Revenue Service (IRS) tax returns;
7. A letter, dated December 12, 2002, from [REDACTED], Silver Spring, Maryland, stating that the applicant had been employed since February 2002;
8. An un-translated letter in Spanish;
9. A photocopy of an earnings statement from [REDACTED] & Storage, Inc., Gaithersburg, Maryland, for the one-week pay period ending August 22, 2001; and,
10. A photograph of the applicant and family members, with a date of March 31, 2001.

The applicant claims to have last lived continuously in the United States since February 20, 2000. It is reasonable to expect that he would have a variety of credible, contemporaneous evidence to support this claim. Letters from an acquaintance and a family member (No. 5, above) are not, by themselves, persuasive evidence of residence or physical presence. The employment letters (Nos. 4 and 7) 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, they are not in the form of affidavits and do not provide the address where the applicant resided during the periods of his employment, the specific periods of employment, and the periods of layoff (if any). Furthermore, they are not supported by objective evidence such as earnings statements and company payroll records. Nos. 3, 8, and 10 also have little value. There is no indication that No. 3 was issued by an official entity, No. 8 is not translated,<sup>1</sup> and the location of No. 10 is not identifiable. The only credible, objective documentation submitted are Nos. 6 and 9. No. 6 establishes the applicant's presence in the United States during an unspecified period in 2001, while No. 9 establishes his physical presence in the United States in August 2001.

Based on a review of the record, it is concluded that the documentation submitted is not sufficient to establish that the applicant satisfies the continuous physical presence requirements described in 8 C.F.R. § 244.2(b). Consequently, the director's decision to deny the application will be affirmed.

Beyond the decision of the director, the applicant has not submitted sufficient evidence to establish that he satisfies the continuous residence requirements described in 8 C.F.R. § 244.2(c). Therefore, the application must also be denied for this reason.

---

<sup>1</sup> Any document containing a 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. 8 C.F.R. § 103.2(b)(3).

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.