

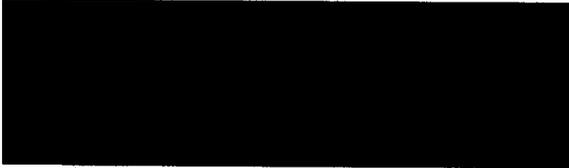
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**U.S. Citizenship  
and Immigration  
Services**

*MI*



FILE: [REDACTED]  
[EAC 03 010 51768]

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:



**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.

A handwritten signature in cursive script, appearing to read "Robert P. Wiemann".

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 residence and continuous physical presence in the United States during the requisite time periods.

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.

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 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 granted until September 9, 2006, upon the applicant's re-registration during the requisite time period.

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.

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 record reflects that the applicant filed his initial Form I-821, Application for Temporary Protected Status on September 10, 2002, 1 day after the initial registration period had ended. In support of his application, the applicant submitted:

1. A photocopy of an abstract of his El Salvadoran birth certificate, with English translation, issued in El Salvador on July 30, 2002; and,
2. A photocopy of his El Salvadoran personal identification card (*cédula*), issued in El Salvador on August 1, 2002.

On November 14, 2003, 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 director determined that the applicant had failed to respond to the request for evidence, and had, therefore, not submitted sufficient evidence to establish his eligibility for TPS. The director denied the application on May 18, 2004.

On appeal, counsel for the applicant submits an express mail receipt indicating that the applicant responded to the director's request for evidence on December 12, 2003. In support of the appeal, counsel submits the following additional documentation:

3. A letter, dated June 3, 2004, from the applicant stating that he did, in fact, respond to the director's request for evidence;
4. A photocopy of an Express Mail receipt, dated December 12, 2003;
5. A letter, dated May 20, 1994, from the president of [REDACTED] Landscape Construction, Northport, New York, stating that the applicant had been employed since 2000;
6. A letter, dated May 28, 2004, from the associate pastor of the St. Buch of Lincoln Roman Catholic Church, Huntington Station, New York, stating that the applicant had lived in the parish since 2000;
7. An unsigned letter, dated May 28, 2004, from [REDACTED] stating that the applicant had been a tenant in her house since February 2001; and,
8. A letter, dated May 28, 2004, from an acquaintance attesting to the applicant's presence in the United States since 2000.

There is no further documentation contained in the record in support of the application.

The applicant claims to have lived continuously in the United States since January 14, 2000. It is reasonable to expect that he would have a variety of credible, contemporaneous evidence to support this claim. A letter from an acquaintance (No. 8, above) is not, by itself, persuasive evidence of continuous residence and continuous physical presence. The employment letter (No. 5) 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 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. Similarly, the church letter (No. 6) has little evidentiary weight or probative value as it does not provide the specific date that the applicant was officially registered as a parishioner at his church. Furthermore, the rent letter (No. 7) is not supported by objective evidence such as rent receipts and a lease agreement.

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). Consequently, the director's decision to deny the application for Temporary Protected Status will be affirmed.

Beyond the decision of the director, 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). Therefore, the application must also be denied for this reason.

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.