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U.S. Department of Homeland Security  
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Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

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FILE: [REDACTED]  
[EAC 03 073 53669]

OFFICE: VERMONT SERVICE CENTER

DATE: 03 1 2005

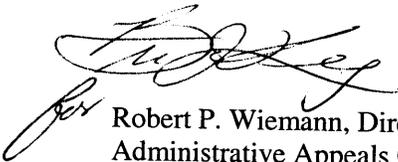
IN RE: Applicant: [REDACTED]

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.

  
for 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 claims to be 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 had failed to establish that he had continuously resided in the United States since February 13, 2001, and had been continuously physically present from March 9, 2001, to the date of filing the application.

On appeal, the applicant submits a statement and additional evidence.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an alien who is a national of a foreign state designated by the Attorney General is eligible for temporary protected status 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 8 C.F.R. § 244.4; and
- (f)
  - (1) Registers for TPS 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 condition described in paragraph (f)(2) of this section.

The term *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 term *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.

Persons applying for TPS offered to El Salvadorans must demonstrate that they have continuously resided in the United States since February 13, 2001, and that they have been continuously physically present 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. A subsequent extension of the TPS designation has been granted by the Department of Homeland Security, 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).

The record shows that the applicant filed his initial application on September 9, 2002. The applicant submitted with his application:

1. Affidavits from [REDACTED], [REDACTED], and [REDACTED] attesting to have known the applicant since February 2001, and that the applicant has continuously resided in the United States since February 13, 2001.

In a notice of intent to deny dated January 15, 2004, the applicant was requested to submit additional evidence establishing his continuous residence and continuous physical presence in the United States during the requisite period. In response, the applicant submits:

2. Affidavits from [REDACTED] and [REDACTED] attesting to have known the applicant since February 2001, and that the applicant has continuously resided in the United States since February 13, 2001.
3. An affidavit from [REDACTED] attesting to have known the applicant since January 30, 2001, and that the applicant has continuously resided and has been continuously physically present in the United States since February 13, 2001.

4. A handwritten note from [REDACTED] indicating that the applicant has rented an apartment from him since 2000.
5. A letter from [REDACTED] of [REDACTED] Inc., indicating that the applicant has been in his employ since July 31, 2002.
6. Copies of Forms W-2, Wage and Tax Statements for 2002 and 2003; copies of Forms 1040A, Income Tax Returns for 2002 and 2003; and copies of Forms IT-200, New York Resident Income Tax Returns for 2002 and 2003.

The director determined that the six "fill in the blank" statements and the employment statement were insufficient to establish that the applicant had resided in the United States since February 13, 2001, and had been continuously physically present since March 9, 2001, and denied the application on March 24, 2004.

On appeal, the applicant requests reconsideration of his application. He resubmits copies of income tax forms detailed in No. 6 above. He also submits:

7. Copies of Form W-2, Wage and Tax Statement for 2001, and Form IT-200, New York Resident Income Tax Returns for 2001. A stamp on page 1 of the form indicates that the forms were received at the Internal Revenue Service on April 23, 2004.
8. Copies of two envelopes, addressed to the applicant, postmarked December 7, 2002, and December 18, 2002.
9. A copy of a "TravelersExpressMoneyGram" purchaser's receipt dated February 24, 2004.
10. Copies of postal money order receipts, both dated April 15, 2004.

The six affidavits, listed as Nos. 1, 2, and 3 above, attest to the applicant's continuous residence since February 13, 2001, based on their personal knowledge, but fail to provide any specifics regarding the nature, circumstances or origin of the affiants' acquaintanceship with the applicant. Moreover, the wording of these "fill-in-the-blank" affidavits is identical. As such, these documents appear to have been prepared for the affiants rather than by the affiants. It is noted that Mr. [REDACTED] (No. 3 above) attested to have known the applicant since January 30, 2001. However, he did not clarify where or how he was acquainted with the applicant as the applicant claimed to have entered the United States on February 1, 2001. This is true with the note from [REDACTED] (No. 4 above) indicating that the applicant has been his tenant since 2000; there is no evidence that the applicant was in the United States in 2000.

The Form W-2 and Form IT-200 for the tax year 2001 (No. 7 above), furnished on appeal, are insufficient to establish the applicant's continuous residence and continuous physical presence. According to the date-stamp, the forms do not appear to have been received by the IRS until April 23, 2004. Further, these forms are not accompanied by W-2 forms or pay statements to show that the applicant was in fact working in the United States during the requisite period.

The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. 8 C.F.R. § 244.9(b). The documents noted above are not considered credible and greatly reduce the credibility of other documents contained in the record of proceeding. Additionally, regulations at 8 C.F.R. § 244.9(a)(2) do not expressly provide that personal affidavits on an applicant's behalf are sufficient to establish the

applicant's qualifying continuous residence or continuous physical presence in the United States. Moreover, the statements provided to establish the applicant's qualifying residence in the United States were not supported by any other corroborative evidence.

Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth, in fact, lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988).

The remaining evidence contained in the record only establishes the applicant's continuous residence and continuous physical presence since July 2002.

Accordingly, the applicant has failed to establish that he has met the criteria for continuous residence in the United States since February 13, 2001, and continuous physical presence since March 9, 2001, as described in 8 C.F.R. § 244.2(b) and (c). Consequently, the director's decision to deny the application will be affirmed.

Beyond the decision of the director, it is noted that although the record of proceeding contains an El Salvadoran birth certificate, this birth certificate was not accompanied by an English translation as required by 8 C.F.R. § 103.2(b)(3), and a photo identification to establish the applicant's nationality and identity as required by 8 C.F.R. § 244.9(a)(1).

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.