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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:



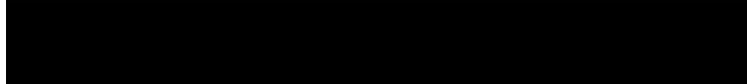
OFFICE: VERMONT SERVICE CENTER

DATE: OCT 31 2005

[EAC 02 264 51672]

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**DISCUSSION:** The applicant's Temporary Protected Status was withdrawn by the Director, Vermont Service Center, and the case is now before the Administrative Appeals Office on appeal.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 was granted Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254, on May 27, 2003. The director subsequently withdrew the applicant's TPS on June 1, 2004, 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.

The director may withdraw the status of an alien granted TPS at any time if it is found that the alien was not in fact eligible at the time such status was granted, or at any time thereafter becomes ineligible for such status. Section 244(c)(3)(A) of the Act and 8 C.F.R. § 244.14(a)(1).

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 applicant claimed to have entered the United States in December 2000. He filed his TPS application on August 14, 2002, and the application was approved on May 27, 2003. The files of the applicant's parents were subsequently reviewed pertaining to the applicant's case. It was discovered that the applicant's mother, who initially filed her TPS application on July 18, 2001,<sup>1</sup> listed all her children, including the applicant, as residing in El Salvador. In addition, the applicant's father, who initially filed his TPS application on May 3, 2001,<sup>2</sup> listed all his children, including the applicant, as residing in El Salvador.

In a notice of intent to withdraw dated March 25, 2004, the director noted that a further review of the applicant's evidence submitted with his application revealed that the applicant submitted no physical evidence of his continuous residence in the United States since February 13, 2001, and continuous physical presence since March 9, 2001. Instead, the applicant only submitted "fill in the blank" statements from persons attesting to these requirements. The applicant was, therefore, afforded 30 days in which to submit evidence to show continuous residence and continuous physical presence in the United States during the requisite period. He was advised that

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<sup>1</sup> The date of July 13, 2001, that the director indicated as the filing date of the TPS application was, in fact, the date the application was signed by the applicant's mother.

<sup>2</sup> The date of March 15, 2001, that the director indicated as the filing date of the TPS application was, in fact, the date the application was signed by the applicant's father.

“additional statements attesting to your residence and presence in the United States will not be sufficient to overcome these grounds of withdrawal.”

The director determined that the applicant had failed to respond to his request for additional evidence and denied the application on June 1, 2004.

It is noted that the applicant responded to the director's March 25, 2004, notice of intent to withdraw, but the response was received at the Service Center on June 10, 2004, after the director's decision to withdraw was issued. Despite the director's advice that additional statements would not be sufficient to overcome the grounds of withdrawal, the applicant submitted with his response four additional statements from individuals attesting that they have known the applicant since December 2000, and that the applicant has resided continuously in the United States since December 2000.

The statements from these individuals attest to the applicant's continuous residence based on their “personal knowledge,” but fail to provide any specifics regarding the nature, circumstances, or origin of the affiants' acquaintanceship with the applicant, and the address where the applicant resided during the time of their acquaintance. Moreover, the wording of these “fill-in-the-blank” statements is identical, and the handwriting on each of these statements also is identical. As such, these documents appear to have been prepared for the affiants rather than by the affiants.

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.

On appeal, the applicant asserts that he came to the United States before February 13, 2001, and that his parents made a mistake when they put on their application that he was in El Salvador. He resubmits copies of the statements from the four individuals, detailed above. He added that he has no more proof for his case.

The applicant's assertion that his parents made a mistake on their application is not persuasive. The applicant's statement, without supporting credible evidence, is insufficient to establish that he was in the United States during December 2000 as claimed.

The applicant has failed to establish that he has met the criteria for continuous residence 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 withdraw the application will be affirmed.

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.