

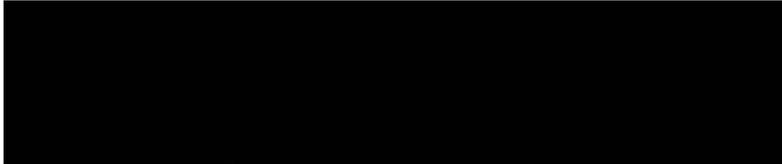


U.S. Citizenship
and Immigration
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FILE: [REDACTED]
[WAC 06 095 70196]

Office: CALIFORNIA SERVICE CENTER Date: **DEC 11 2006**

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.

A handwritten signature in black ink, appearing to read "R. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, California Service Center, and 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 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 he was eligible for late registration. The director also found that the applicant had failed to establish continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States since March 9, 2001.

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 applicant who is a national of a foreign state 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 § 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, 2007, upon the applicant's re-registration during the requisite time period.

The initial registration period for Salvadorans was from March 9, 2001 through September 9, 2002. The record reveals that the applicant filed his initial TPS application with Citizenship and Immigration Services (CIS) on January 3, 2006.

The burden of proof is upon the applicant to establish that he 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 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 first issue in this proceeding is whether the applicant is eligible for late registration.

The record of proceedings confirms that the applicant filed his TPS application after the initial registration period had closed. 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.

On February 27, 2006, the applicant was requested to submit evidence establishing his eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2). The applicant was also requested to submit evidence establishing his qualifying continuous residence and continuous physical presence in the United States. The applicant, in response, submitted evidence to establish his identity and nationality and documents relating to his

residence and physical presence in the United States, but he did not submit any evidence to establish his eligibility for late initial registration.

The director determined that the applicant had failed to establish he was eligible for late registration and denied the application on May 10, 2006.

On appeal, the applicant states that he didn't apply for TPS before 2006 because he was not aware of the TPS program and because he had no money to pay the application fees; however, he does not submit any evidence to establish his eligibility for late initial registration.

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). Consequently, the director's conclusion that the applicant had failed to establish his eligibility for late registration will be affirmed.

The second issue in this proceeding is whether the applicant has established continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States since March 9, 2001.

The applicant indicated on his Form I-821 that he first entered the United States on June 12, 2001.

As stated above, the applicant was requested on February 27, 2006, to submit evidence establishing his qualifying continuous residence and continuous physical presence in the United States. The applicant, in response, submitted the following:

1. photocopies of electricity bills pertaining to [REDACTED] dated October 10, 2001, December 12, 2001, and March 13, 2002;
2. photocopies of money orders from [REDACTED] payable to [REDACTED] for rent payments dated July 31 2001, November 30, 2001, and April 1, 2002;
3. photocopies of 2002, 2003, and 2004 Internal Revenue Service (IRS) Forms W-2, Wage and Tax Statement, from [REDACTED] relating to [REDACTED];
4. a letter dated March 15, 2006, from [REDACTED] Arizona, stating that the applicant came to work for his company in 2004;
5. a letter dated March 13, 2006, from [REDACTED] stating that she met the applicant on June 30, 2001, because he is her neighbor;
6. a letter dated March 10, 2006, from [REDACTED] stating that she has known the applicant since June 2001 when she met him at a church service;
7. a letter dated March 13, 2006, from [REDACTED] stating that he has known the applicant since June 2001;

8. a letter dated March 10, 2006, from [REDACTED] stating that he has known the applicant since June 2001;
9. a letter dated March 13, 2006, from [REDACTED] stating that he met the applicant in July 2001 at a church function;
10. a photocopy of IRS correspondence dated February 2, 2005;
11. a letter dated March 10, 2006, from [REDACTED] stating that he has known the applicant since June 30, 2001;
12. a letter dated August 15, 2006, from [REDACTED] stating she has known the applicant since June 25, 2001;
13. a letter dated March 15, 2006, from [REDACTED] stating that he has known the applicant since June 21, 2001; and,
14. a letter dated March 14, 2006, from [REDACTED] stating that he has known the applicant since June 15, 2001.

The director determined that the applicant had failed to submit sufficient evidence to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite periods and denied the application.

On appeal, the applicant submits the following additional evidence:

15. a photocopy of an earnings statement from [REDACTED] Arizona, dated July 25, 2001, reflecting the employee's name as [REDACTED];
16. a photocopy of a cash receipt from [REDACTED] Arizona, dated November 18, 2001;
17. a photocopy of a medical prescription from [REDACTED] Arizona, dated August 14, 2001;
18. a photocopy of a medical form from [REDACTED] Arizona, dated August 14, 2001;
19. a photocopy of a rental agreement from [REDACTED] for an apartment rental to [REDACTED] and [REDACTED] dated June 16, 2001;
20. a letter dated May 16, 2006, from [REDACTED] stating that he has know "her" since March 1, 2001;

21. a letter dated May 17, 2006, from [REDACTED] stating he has known the applicant since June 27, 2001;
22. an affidavit dated May 17, 2006, from [REDACTED] stating he has known the applicant since March 25, 2001;
23. a letter dated May 17, 2006, from [REDACTED] stating that she has known the applicant since March 23, 2001; and,
24. a letter dated May 25, 2006, from [REDACTED] stating that she has known the applicant since February 20, 2001.

The applicant stated on his Form I-821 that he entered the United States on June 12, 2001. However, the authors of the letters in Nos. 20, 22, 23, and 24 above all state that they met the applicant in February or March 2001. The applicant has not provided any explanation for this discrepancy in his claimed date of entry into the United States. Furthermore, the applicant's name and the dates on the documents listed in Nos. 16-19 appear to have been altered. The applicant has failed to provide any explanation for these apparent alterations. 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. Further, it is incumbent on 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 lies, will not suffice. Matter of Ho, 19 I&N Dec. 582. (Comm. 1988).

Additionally, without corroborative evidence, the letters listed in Nos. 5-9, 11-14, and 20-24 above are not sufficient to establish the applicant's qualifying continuous residence and continuous physical presence during the requisite periods.

Moreover, the documents listed in Nos. 1-3, 15, and 19 relate to [REDACTED]. The applicant claimed in a letter dated March 17, 2006, that he and [REDACTED] are one and the same person, but he has not provided any independent evidence to corroborate his claim. Therefore, these documents cannot be accepted as evidence of the applicant's residence and physical presence in the United States.

Finally, it is noted that the applicant has also submitted a photocopy of the biographic page of his Salvadoran passport issued in El Salvador on October 28, 2002. Since the applicant was apparently in El Salvador in 2002, he cannot establish continuous physical presence in the United States throughout the requisite period.

The applicant has not submitted sufficient credible evidence to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite periods. He has, therefore, failed to establish that he has met the criteria described in 8 C.F.R. §§ 244.2(b) and (c). Consequently, the director's decision to deny the application for TPS on these grounds will also be affirmed.

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.