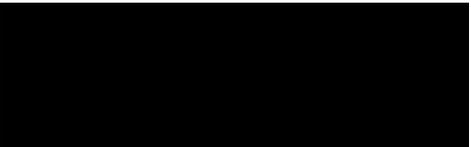


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U.S. Citizenship  
and Immigration  
Services

M1



FILE:



Office: Nebraska Service Center

Date: JAN 05 2006

[WAC 01 263 63430]

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 application was denied by the Director, Nebraska 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 his date of entry, his qualifying residence and his continuous physical presence in the United States during the requisite time periods. The director also indicate that the applicant's fingerprints had expired.

On appeal, the applicant asserts his eligibility for TPS and submits documentation in support of his claim.

Although a Form G-28, Notice of Entry of Appearance as Attorney or Representative, has been submitted, the individual named is not authorized under 8 C.F.R. § 292.1 or 292.2 to represent the applicant. Therefore, the applicant shall be considered as self-represented and the decision will be furnished only to the applicant.

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.

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. A subsequent extension of the TPS designation has been granted by the Secretary of 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).

Along with his application for TPS, the applicant submitted the following documentation:

- 1) Copies of his El Salvadoran personal identification card (Cedula) issued to him in El Salvador on December 31, 2000;
- 2) A copy of his medical billing statement from Marian Medical Center CHW in Santa Maria, California reflecting a date of service of April 30, 2001;
- 3) A copy of his medical notes from the Emergency Department of the Marian Medical Center CHW reflecting an admission date of April 30, 2001;
- 4) A copy of his Patient's Data (Summary) from the Marian Medical Center CHW, regarding his medical services dated March 23, 2001, April 1, 2001, and April 30, 2001;

- 5) An affidavit dated August 3, 2001, from [REDACTED] who stated that the applicant has resided in the United States since September 2000;
- 6) A copy of a medical billing statement from [REDACTED] CHW reflecting the name of Ms. Silvia Gallaga for a service date of February 20, 2001;

On May 26, 2004, the applicant was requested to submit evidence establishing his date of entry to the United States as of February 13, 2001, his "residence in the United States since February 13, 2001", and his continuous physical presence in the United States since March 9, 2001. In response, the applicant the following documentation:

- 7) A statement dated June 22, 2004, from the applicant who stated that he is a native of El Salvador and entered the United States on October 20, 2000. The applicant also requested that the Service use the original documents (as noted in Nos. 1 through 6 above) provided along with his application for TPS;
- 8) Copies of his Employment Authorization cards valid from January 13, 2002 to September 9, 2002, and September 10, 2002 to September 9, 2003; and,
- 9) A copy of his California State Identification Card issued to him on October 11, 2002.

The director determined that the applicant failed to establish his date of entry, his residence in the United States and his continuous physical presence in the United States during the requisite time periods. Therefore, the director denied the application on July 23, 2004.

On appeal, the applicant states that he has been in the United States since September 20, 2000. The applicant provides the following documentation along with his appeal:

- 10) A copy of a hand-written rent receipt dated October 30, 2000;
- 11) Copies of his Employment Authorization cards valid from January 13, 2002 to September 9, 2002, and September 10, 2002 to September 9, 2003;
- 12) Copies of his California Identification Card issued on October 11, 2002;
- 13) Copies of his earnings statements from Alco Services, Inc. dated June 28, 2002 and July 12, 2002;
- 14) Copies of his earnings statements from Swift Pork Company, dated December 27, 2002, October 10, 2003, October 17, 2003, April 16, 2004, and June 11, 2004;
- 15) Copies of his earnings statement from PM Windom dated June 13, 2003;
- 16) Copies of receipts from Fulda Area Credit Union dated April 5, 2004; and,
- 17) A copy of his telephone billing statement from PrairieWave dated March 16, 2004.

The copy of the single rent receipt provided by the applicant is not supported by any other corroborative evidence. While 8 C.F.R. § 244.9(a)(2)(vi) specifically states that additional documents such as rent receipts "may" be accepted in support of the applicant's claim, the regulations do not suggest that such evidence alone is necessarily sufficient to establish the applicant's qualifying continuous residence or continuous physical presence in the United States. The copy of the medical bill as detailed in No. 6 above, bears the name of Ms. [REDACTED]. In addition, the affidavit [REDACTED], as detailed in No. 5 above, is not supported by corroborative evidence regarding the applicant's residence in the United States. Affidavits from acquaintances and family members are not, by themselves, persuasive evidence of continuous residence and

continuous physical presence. The remainder of the evidence submitted by the applicant post-dates the beginning of the requisite time periods for continuous residence and continuous physical presence in the United States. The applicant has not submitted sufficient evidence to establish his qualifying residence in the United States since February 13, 2001, and his physical presence in the United States since March 9, 2001. The applicant 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 will be affirmed.

It is also noted that the applicant stated in his letter, as detailed in No. 7 above, that he did not enter the United States until October 20, 2000. However, the applicant claimed on his TPS application that he entered the United States on September 20, 2000. It is also worth noting that the copy of the applicant's Cedula, as detailed in No. 1 above, indicates that it was issued to the applicant on December 31, 2000, in El Salvador. Not only does there appear to be a discrepancy in the applicant's claimed date of entry to the United States, but also it does not seem logical that the applicant would be in the United States prior to the issuance of his Cedula in El Salvador. Doubt cast on any aspect of the applicant's proof or statements 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 lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988).

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 TPS 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.