

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



U.S. Citizenship  
and Immigration  
Services

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FILE:



[EAC 03 244 55162]

Office: VERMONT SERVICE CENTER

Date: JAN 05 2008

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, Director  
Administrative Appeals Office

**DISCUSSION:** The application was denied, reopened on motion, and denied again by the Director, Vermont Service Center. The application 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 that he was eligible for late registration. The director also found that the applicant had failed to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite periods.

On appeal, the applicant asserts his claim of eligibility for TPS.

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 TPS only if such alien establishes that he or she:

- (a) Is a national of a 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 section 244.3;
- (e) Is not ineligible under 8 C.F.R. § 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. A subsequent extension of the TPS designation has been granted 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 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 first issue in this proceeding is whether the applicant is eligible for late registration.

The initial registration period for Salvadorans was from March 9, 2001, through September 9, 2002. The record reveals that the applicant filed his application with Citizenship and Immigration Services (CIS) on August 27, 2003.

The record of proceedings confirms that the applicant filed his 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 was either in a valid immigration status, had an application pending for relief from removal, was a parolee, or was the spouse or child of an alien currently eligible to be a TPS registrant, and he had filed an

application for late registration within 60 days of the expiration or termination of the conditions described in 8 C.F.R. § 244.2(f)(2).

On September 15, 2003, 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, provided documentation relating to his residence and physical presence in the United States.

The director determined that the applicant had failed to establish that he was eligible for late registration and denied the application on February 20, 2004.

On appeal, the applicant reasserts his claim of eligibility for TPS.

The applicant submitted evidence in an attempt to establish his qualifying continuous residence and continuous physical presence in the United States. However, this evidence does not mitigate the applicant's failure to file his Application for Temporary Protected Status within the initial registration period. 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 his continuous residence in the United States since February 13, 2001, and his continuous physical presence in the United States since March 9, 2001.

As stated above, the applicant was requested on September 15, 2003, to submit evidence establishing his qualifying continuous residence and continuous physical presence in the United States. The applicant, in response, provided the following documentation:

1. A letter from the Trans City Insurance Agency, Inc. dated October 7, 2003, in which it is stated that the applicant had a liability insurance policy through Progressive Insurance Company from March 22, 1999, to December 19, 1999;
2. A letter from [REDACTED] Towson, Maryland, in which it is stated that the applicant was employed by the company as a sales representative from August of 2000 to June 5, 2001;
3. A photocopy of a Virginia driver's license bearing the applicant's name with illegible issuance and expiration dates;
4. A copy of a traffic violation warning from the Baltimore County Police Department dated January 4, 2002, and bearing the applicant's name as violator;
5. A copy of a money order receipt from Envios R.D. Corp. dated June 6, 2003, and bearing the applicant's name as sender;
6. A copy of a money order receipt from Western Union dated September 17, 2003, and bearing the applicant's name as sender; and,

7. A copy of a utility bill from Baltimore BGE Electric dated October 9, 2003, and bearing the applicant's name as resident.

The director determined that the applicant had failed to submit sufficient evidence to establish eligibility and denied the TPS application on February 20, 2004.

In response, the applicant reasserted his claim of eligibility for TPS and submitted the following documentation:

8. Copies of money receipts with receipt numbers [REDACTED] dates of February 4, 2000, October 1, 2000, November 1, 2000, and November 30, 2000, respectively;
9. A copy of a handwritten IRS Form W-2, Wage and Tax Statement for 2000 bearing the applicant's name as employee and Cable T.V. of Piscataway, New Jersey, as the employer; and,
10. A copy of a handwritten drug prescription dated October 7, 2000, and bearing the applicant's name as patient.

The applicant resubmitted copies of the BGE utility bill, Envios R.D. Corp. money order receipt, and Baltimore County Police Department traffic violation warning.

The director treated the applicant's appeal as a motion, due to its lateness, and subsequently denied the application determining that the evidence submitted on motion was insufficient to establish continuous residence and continuous physical presence.

On appeal to the AAO, the applicant reasserts his claim of eligibility for TPS and submits the following documentation:

11. A handwritten copy of a medical memo from the office of doctor Allan D. Tiedrich, M.D. dated October 7, 2000, and bearing the applicant's name as patient; and,
12. A copy of a physician permission certificate from Plainfield Neighborhood Health Services Corporation dated September 1, 2000, and bearing the applicant's name as patient.

The applicant resubmits copies of the money order receipt from Envios R.D. Corp., money receipts for February, October, and November of 2000, and the Baltimore County Police Department traffic violation warning.

The applicant has not submitted sufficient credible evidence to establish his qualifying continuous residence in the United States since February 13, 2001, and his continuous physical presence in the United States since March 9, 2001. The employment letter submitted by [REDACTED] stated that the applicant was employed by the company which is located in Towson, Maryland from August of 2000 to June 5, 2001. (No. 2 above). However, the copies of the rent receipts (No. 8 above), and medical memorandum (Nos. 11 and 12 above) all indicate that the applicant was in New Jersey in 2000 not Towson, Maryland. In addition, the handwritten Form W-2 (No. 9 above) indicates that Cable T.V. of Piscataway, New Jersey, employed the applicant in 2000. 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 lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988). The applicant has failed to submit any objective evidence to explain or justify the inconsistencies found in the record.

The rent receipts are not in proper numerical order according to their dates, and are dated prior to the requisite time period in question. The insurance coverage by Progressive Insurance Company is also prior to the requisite time period (No. 1 above). The handwritten drug prescription (No. 10 above) is dated October 7, 2000, which is prior to the requisite time period.

All other evidence submitted is dated subsequent to the February 13, 2001, and March 9, 2001, and therefore, cannot be used to establish continuous residence and continuous physical presence in the United States since those dates. The applicant has failed to establish that he has met the continuous residence and continuous physical presence 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.

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. The application will be denied for the above reasons, with each considered as an independent and alternative basis for denial.

**ORDER:** The appeal is dismissed.

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