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U.S. Citizenship
and Immigration
Services

MI

FILE:

[EAC 01 183 53617]

Office: Vermont Service Center

Date: **JAN 26 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, 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 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 qualifying continuous residence and continuous physical presence in the United States during the requisite periods.

On appeal, the applicant submits documentation in support of 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 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 a copy of his El Salvadoran passport issued to him on September 12, 2000, at the General Counsel in Washington, DC; and, a copy of his Virginia State Identification Card issued on November 4, 2000.

On April 17, 2003, the applicant was requested to submit evidence establishing his continuous residence in the United States as of February 13, 2001, and his continuous physical presence in the United States from March 9, 2001, to the date of filing his application. The applicant was also requested to submit evidence that he had re-registered for TPS. In response, the applicant submitted another copy of his Virginia State Identification Card issued on November 4, 2000, and a copy of his Virginia State Driver's License issued on October 31, 2001. The director determined that the applicant had failed to establish his eligibility for TPS and denied the application on August 1, 2003.

On appeal, the applicant asserts his eligibility for TPS and submits the following documentation in support of his claim: a letter dated August 26, 2003, from Mr. [REDACTED] President of [REDACTED] Carpentry, who stated that the applicant has worked for him since November 1999. Mr. [REDACTED] also stated that the applicant lived at [REDACTED] in Alexandria, Virginia, when he began working for him, and that the applicant now resides

at 8129 Norwood Drive in Alexandria, Virginia; a copy of a Transcript of Driver History Record from the Virginia State DMV dated August 26, 2003; copies of three money transfer receipts from [REDACTED] dated July 8, 2000, October 8, 2000, and August 4, 2001; a copy a billing statement from Nationwide Mutual Insurance Company dated March 17, 2002; a copy of a billing statement from Dish Network dated February 22, 2002; and copies of two Global Express money orders dated March 17, 2001.

The letter from [REDACTED] regarding the applicant's employment with his company is not supported by corroborative evidence to substantiate his statements. It is reasonable to expect that the applicant would have evidence of his employment, such as earnings statements or check payment stubs, from the employer. Further, a review of the evidence reflects a gap between the date he was issued his Virginia State Identification card, November 4, 2000, and the date he filed for TPS on March 22, 2001. Further, the applicant claims to have lived in the United States since November 13, 1999. It is reasonable to expect that the applicant would have some other type of contemporaneous evidence to support his claimed continuous residence and continuous physical presence in the United States during the qualifying time periods. The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. 8 C.F.R. § 244.9(b). It is determined that the documentation submitted by the applicant is not sufficient to establish that he satisfies the continuous residence and continuous physical presence requirements described in 8 C.F.R. §§ 244.2(b) and (c). Consequently, the director's decision to deny the application for temporary protected status will 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 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.