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FILE: [REDACTED]  
[EAC 01 210 50527]

Office: VERMONT SERVICE CENTER

Date: **JAN 26 2006**

IN RE: Applicant: [REDACTED]

APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT:

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, Vermont Service Center. The appeal from the director's denial was dismissed by the director of the Administrative Appeals Office (AAO). The application is now before the AAO on motion to reopen. The case will be reopened and the appeal will again 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 on May 19, 2003 because the applicant failed to establish that he had continuously resided in the United States since February 13, 2001.

The applicant appealed the director's decision to the AAO on June 16, 2003. The AAO affirmed the director's decision to deny the TPS application because the applicant had failed to submit sufficient evidence to establish continuous residence in the United States since February 13, 2001.

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.

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. An 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 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).

The applicant previously submitted the following documentation as evidence:

1. A letter from the manager of Giant Express in which he stated that the applicant has been using the companies services "frequently on a monthly bases, including February 5, 2001";
2. A letter from [REDACTED] in which it is stated that the applicant had been working for the company, part-time, from January of 2001 to the present; and,
3. A letter from All Shores Landscaping, Inc. dated June of 2003 in which the owner stated that the applicant had been working for the company from January of 2001 to the present.

On motion to reopen, counsel asserts that the applicant was ill advised by his former representative in that he was under the impression that he had submitted sufficient evidence to establish continuous residence. Counsel reasserts the applicant's claim of eligibility for TPS and submits the following documentation:

4. A letter from the Hispanic Ministry Apostolate of Saint Brigid's Church in which he states that the applicant has been a parishioner in the Church since December of 2000, attends Spanish Mass every weekend, and is involved in different events that the Parish organizes;
5. An affidavit from [REDACTED] in which he states that he has known the applicant since January of 2001 and that they are very good friends;
6. An affidavit from [REDACTED] in which she states that she has known the applicant since Christmas of 2000, that she met him at St. Brigid's Church, and that in January of 2002 the applicant began renting a room from her at 354 Sheridan Street;
7. A letter from [REDACTED] in which he states that he has known the applicant since March of 2001;
8. An English translated letter from [REDACTED] in which he states that he has known the applicant since December 23, 2000;
9. An English translated letter from [REDACTED] in which he states that he is a co-worker of the applicant and that he has known the applicant since May 15, 2001; and,
10. Copies of pay statements dated March, April, and May of 2001 and bearing the applicant's name.

The applicant has not submitted sufficient evidence to establish his qualifying continuous residence in the United States since February 13, 2001. The letter from [REDACTED] Church (No. 4 above) has little evidentiary weight or probative value as it does not provide basic information that is expressly required by 8 C.F.R. § 244.9(a)(2)(v). Specifically, the church representative does not explain the origin of the information to which she attests, nor does she provide the address where the applicant resided during the period of his involvement with the church.

The employment letters from [REDACTED] (Nos. 2 and 3 above) have little evidentiary weight or probative value as they do not provide basic information that is expressly required by 8 C.F.R. § 244.9(a)(2)(i). Specifically, the letters do not provide the address where the applicant resided during the period of his employment. In addition, there has been no corroborative evidence such as verified income tax forms, company payroll statements, or cancelled checks to substantiate the statements made by the company representative.

The letter from Giant Express (No. 1 above) is vague and is not accompanied by any documentary evidence to substantiate the claims made by the company's representative. [REDACTED] states in her affidavit (No. 6 above) that she has known the applicant since Christmas of 2000 and that the applicant has rented a room from her since January of 2002. There has been no corroborating evidence submitted to substantiate her claim. Further, January of 2002 is after the requisite time period in which the applicant must establish his continuous residence in the United States. [REDACTED] states in his letter that he has known the applicant since March of 2001 (No. 7 above) and [REDACTED] states in his letter that he has known the applicant since May 15, 2001 (No. 9 above). Neither of these dates is significant to establish the applicant's continuous residence in the United States since February 13, 2001.

There has been no corroborative evidence submitted to support the statements made by [REDACTED], [REDACTED], or [REDACTED] (Nos. 5, 6, and 8 above) regarding the applicant's claimed presence in the

United States since November of 2000. It is reasonable to expect that the applicant would have some type of contemporaneous evidence to support these assertions; however, insufficient evidence has been provided. Without corroborative evidence, affidavits from acquaintances do not substantiate clear and convincing evidence of the applicant's continuous residence and continuous physical presence in the United States. Moreover, affidavits are only specifically listed as acceptable evidence for proof of employment, and attestations by churches, unions, or other organizations of the applicant's residence as described in 8 C.F.R. §244.9(a)(2)(i) and (v).

All other evidence is dated subsequent to February 13, 2001 and therefore, cannot be used to establish the applicant's continuous residence in the United States since that date. The applicant has failed to establish that he has met the continuous residence criteria described in 8 C.F.R. § 244.2(c). Consequently, the director's decision to deny the application for TPS and the AAO's previous denial of the appeal will 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.