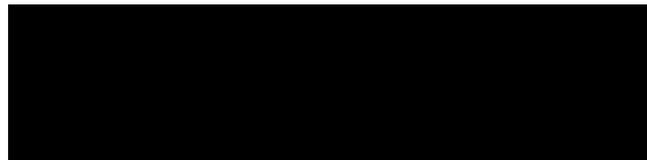


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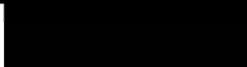
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**JUN 20 2006**

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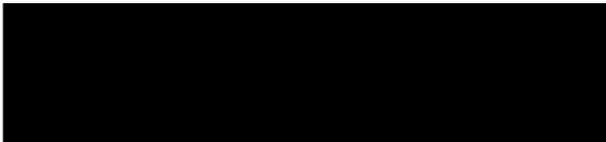
Applicant:



APPLICATION:

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

ON BEHALF OF APPLICANT:



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.

*Cindy M. Gomez*

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, Vermont Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained. The decision of the director will be withdrawn, and the application will be approved.

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 physical presence in the United States during the requisite time period.

On appeal, counsel for the applicant submits a brief and additional documentation.

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. The initial registration period for Salvadorans was from March 9, 2001, through September 9, 2002. 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, 2006, upon the applicant's re-registration during the requisite time period.

The burden of proof is upon the applicant to establish that he meets the above requirements. Applicants must 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 record reflects that the applicant filed his initial Form I-821, Application for Temporary Protected Status, on June 8, 2001. In support of the application, the applicant submitted:

1. A photocopy of the identification page from his El Salvadoran passport, issued in Boston, Massachusetts, on February 16, 2000;
2. A photocopy of his El Salvadoran birth certificate, with English translation;
3. A photocopy of a Sprint PCS invoice, dated June 7, 2000;
4. A Thrifty Financial Services, Inc., Springfield, Massachusetts, account statement, dated March 6, 2001; and,

5. A photocopy of a Bostongas billing statement, dated January 4, 2000.

On June 3, 2003, the director requested the applicant to submit evidence establishing his qualifying continuous residence and continuous physical presence in the United States during the requisite time periods. The applicant was informed that such evidence may include, but was not limited to, employment records, utility bills, receipts showing dates of service, school records, hospital or medical records, money order receipts, birth certificates of children born in the United States, dated bank records, rent records, or similar documents. In response, the applicant submitted:

6. A Sprint PCS invoice, dated January 7, 2001; and,
7. A Bostongas billing statement, dated January 4, 2000 (the original of No. 5, above).

The director determined that the applicant had failed to submit sufficient evidence to establish his qualifying continuous physical presence in the United States and denied the application on August 26, 2003.

On appeal, counsel for the applicant submits the following additional documentation:

8. A photocopy of the identification page from the applicant's El Salvadoran passport, issued in Boston, Massachusetts, on March 2, 2005;
9. A photocopy of a Thrifty Financial Services, Inc., vehicle insurance statement, dated December 7, 2000;
10. A photocopy of a Massachusetts state vehicle tax statement, dated March 14, 2001;
11. Photocopies of TravelersExpress international money order receipts, dated June 27, 2000; April 16, 2001; and, June 25, 2001;
12. A photocopy of a United States Amateur Soccer Association, Inc., Amateur Player Registration Form, signed by the applicant and his team representative on April 23, 2001;
13. A photocopy of a letter, dated March 1, 2005, from the Committee of Refugees from El Salvador, Somerville, Massachusetts, stating that the applicant had participated in its soccer league from 1997 to 2003;
14. Photocopies of insurance billing statements, dated April 29, 2001, and June 11, 2001;
15. A photocopy of an automobile insurance coverage statement, for the period March 29, 2000 to March 29, 2001;
16. Photocopies of Sprint PCS phone charges, dated April 2000, July 2000, and January 2001;
17. A letter from e Floor, Inc., stating that the applicant had been employed since January 2001; and,
18. Photocopies of affidavits from the applicant's landlord and a co-worker, attesting to the applicant's residence and physical presence in the United States.

The documentation submitted consistently notes the applicant's address as [REDACTED]

[REDACTED] Furthermore, the documentation indicates that the applicant was continuously physically present in the United States from March 9, 2001 through to the date of filing his TPS application on June 8, 2001

It is concluded that the applicant has submitted sufficient evidence to overcome the ground of denial cited by the director. Therefore, the director's decision will be withdrawn, and the application will be approved.

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. Here, the applicant has met this burden.

**ORDER:** The appeal is sustained.