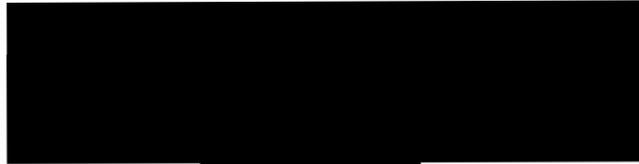




U.S. Citizenship  
and Immigration  
Services

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invasion of personal privacy

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FILE:

[EAC 01 190 54771]

OFFICE: VERMONT SERVICE CENTER

DATE: JUN 26 2006

IN RE:

Applicant:



APPLICATION:

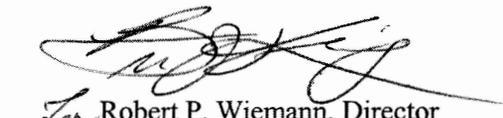
Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

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.

  
for 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 claims to be 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 had failed to submit sufficient evidence to establish that he had continuously resided in the United States since February 13, 2001.

On appeal, the applicant submits a statement and additional evidence.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an alien who is a national of a foreign state designated by the Attorney General 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 8 C.F.R. § 244.4; and
- (f)
  - (1) Registers for TPS 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 term *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.

The term *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.

Persons applying for TPS offered to El Salvadorans must demonstrate that they have continuously resided in the United States since February 13, 2001, and that they have been continuously physically present 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. Subsequent extensions of the TPS designation have been granted, with the latest extension valid 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 record shows that the applicant filed his initial TPS application on April 30, 2001. In a notice of intent to deny dated April 14, 2004, the applicant was requested to submit evidence establishing his continuous residence in the United States since February 13, 2001. The applicant failed to respond; therefore, the director denied the application on August 10, 2004.

On appeal, the applicant submits:

1. A copy of a data card from Mangiare, Inc. T/A Positano indicating that the applicant was hired on May 4, 1999, and terminated on October 2, 2001.
2. A copy of a pay statement dated December 3, 1999, from Mangiare, Inc. T/A Positano.
3. A copy of Form W-2, Wage and Tax Statement, for 2000.

The evidence provided by the applicant establishes that he was in the United States in 1999 and 2000, prior to the requisite period required to establish continuous residence since February 13, 2001. However, the data card from his employer (No. 1 above) merely shows that the applicant was hired on May 4, 1999, and terminated on October 2, 2001; it does not provide information such as continuous employment, or periods(s) of layoff, if any. The applicant furnished very minimal evidence to establish eligibility; he could have provided additional documentary evidence, such as a letter of employment from his employer, or copies of additional pay statements for the periods required to establish continuous residence and continuous physical presence.

The applicant has failed to submit sufficient evidence to establish that he has met the criteria for continuous residence in the United States since February 13, 2001. 8 C.F.R. § 244.2(c). Additionally, the applicant has

failed to submit sufficient evidence to establish that he has met the criteria for continuous physical presence in the United States since March 9, 2001. 8 C.F.R. § 244.2(b). Consequently, the director's decision to deny the application will be affirmed.

Beyond the decision of the director, it is noted that although the record of proceeding contains an El Salvadoran birth certificate and English translation, the certificate was not accompanied by a photo identification to establish the applicant's nationality and identity as required by 8 C.F.R. § 244.9(a)(1). Therefore, the application will also be denied for this reason.

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 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. The applicant has failed to meet this burden.

**ORDER:** The appeal is dismissed.