



U.S. Citizenship
and Immigration
Services

identifying data **deleted to**
prevent clearly **unwarranted**
invasion of **personal privacy**

PUBLIC COPY



M 11

FILE:



Office: VERMONT SERVICE CENTER

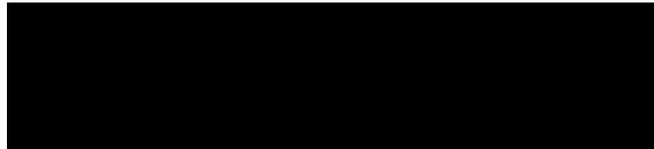
Date:

MAY 03 2006

[EAC 01 187 50910]

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.

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 that he had: 1) continuously resided in the United States since February 13, 2001; and 2) been continuously physically present in the United States since March 9, 2001.

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.

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).

On April 15, 2003, the applicant was requested to submit evidence establishing his continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States since March 9, 2001. The applicant, in response, provided the following documentation:

1. A copy of the applicant's 2002 IRS Form 1040, U.S. Individual Income Tax Return;
2. Copies of the applicant's pay statements from Adecco dated October of 2002 and January of 2003;
3. A copy of the applicant's pay statement from Sea King V., Inc. dated December of 2002; and,
4. A copy of a Maryland Motor Vehicle Administration title card dated May 31, 2004 and bearing the applicant's name as vehicle owner.

The director determined that the applicant had failed to submit sufficient evidence to establish his eligibility for TPS and denied the application on July 11, 2003.

On appeal, the applicant states that he has been in the United States since September of 2000; that he depended upon other people for services such as telephone, cable and other utilities; and that the only evidence he can

present is affidavits from acquaintances who know when he came to the United States. The applicant also reasserts his claim of eligibility for TPS and submits the following documentation:

5. An affidavit from [REDACTED] in which he states that he has known the applicant since September 23, 2000 and that they socialize frequently;
6. An affidavit from [REDACTED] in which he states that he has known the applicant since September 23, 2003 and that they socialize frequently;
7. An affidavit from [REDACTED] in which he states that he has known the applicant since September 23, 2003 and that they socialize frequently; and,
8. An affidavit from [REDACTED] in which he states that he has known the applicant since September of 2003 and that they socialize frequently.

The applicant has not submitted sufficient evidence to establish his qualifying continuous residence since February 13, 2001 and continuous physical presence since March 9, 2001, in the United States. The evidence submitted in Numbers 1 through 4 above is dated 2002, 2003, and 2004, which is subsequent to the requisite time period; and therefore, cannot be used to establish continuous residence and continuous physical presence.

There has been no corroborative evidence submitted to support the statements made by the affiants in numbers 5 through 8 above regarding the applicant's claimed presence in the United States since September 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).

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 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.