

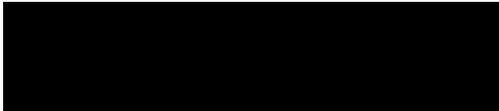


U.S. Citizenship  
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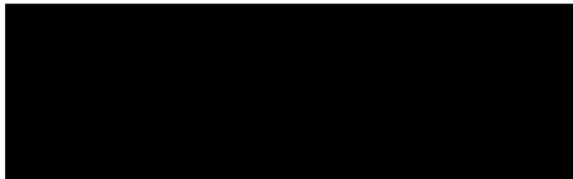


FILE: [REDACTED]  
[SRC 01 192 57228]

Office: California Service Center

Date: NOV 02 2006

IN RE: Applicant:



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

ON BEHALF OF PETITIONER:



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, Chief  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, California Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The applicant is stated 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 record reveals that the applicant filed an initial TPS application on April 23, 2001 under CIS receipt number SRC 01 192 57228. The director denied that application on June 5, 2006, because the applicant failed to establish eligibility for TPS. The director noted that the applicant failed to provide the information requested in a notice of intent to deny, dated March 23, 2006. The director further noted that although the applicant's attorney requested a 30-day extension to provide the requested information, and the 30-day extension had elapsed, the applicant failed to provide the requested information. It is noted that in the notice of intent to deny, the director specifically requested court dispositions for two theft-related arrests, one on March 6, 2000, and the other on February 27, 2001.

On appeal, the counsel asserts that the applicant is eligible for TPS. With the appeal, in an attempt to establish eligibility, the applicant submitted various receipts and documents, including a character reference letter from an employer; a personal reference letter from an acquaintance stating that she has known the applicant in the United States for 12 years; Federal Income Tax returns, Form 1040A, for 2002, 2003, 2004, and 2005; a Western Union money transfer receipt date-stamped January 1998; a money transfer receipt from Barri Remittance Corp. issued in March 1997; utility bills; paystubs; a vaccination certificate; and parent award certificates issued in 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 as 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 section 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 physically present*, as used 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 term *continuously resided*, as used 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 entry on or prior to February 13, 2001, 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. A subsequent extension of the TPS designation has been granted by the Secretary of the Department of Homeland Security, with validity until July 5, 2007, 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 has not submitted the court dispositions as requested by the director, and therefore the applicant has not established eligibility for TPS. Consequently, the director's decision to deny the application for temporary protected status will be affirmed.

It is noted that the applicant's Federal Bureau of Investigation (FBI) fingerprint results report reflects that the applicant was arrested by the Memphis Sheriff's Office, Memphis, Tennessee, on March 6, 2000, and charged with Theft of property under \$500. The applicant was also arrested, under the name [REDACTED] by the Houston Police Department, Houston, Texas, on February 27, 2001, and charged with Theft of more than \$50 and less than \$500. The record indicates a conviction on March 3, 2001; the final court dispositions are not in the record of proceeding. CIS must address these arrests and conviction(s) in any future proceedings.

Beyond the decision of the director, the applicant has not submitted sufficient evidence to establish her nationality and identity. The applicant has furnished a copy of a birth certificate and English translation; however, she has not submitted a national identity document from her country bearing a photograph and or/fingerprint. The birth certificate alone is insufficient to establish the applicant's identity and nationality under the provision of 8 C.F.R. § 244.9(a)(1). Therefore, the application must also be denied for these reasons.

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.