

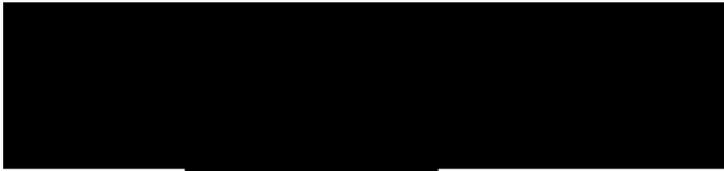
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and Immigration
Services

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FILE:



Office: VERMONT SERVICE CENTER

Date: NOV 06 2006

[SRC 02 077 54436]

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, Chief
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 failed to establish continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States since March 9, 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 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. 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 granted until September 9, 2007, upon the applicant's re-registration during the requisite time period.

The initial registration period for Salvadorans was from March 9, 2001, through September 9, 2002. The record reveals that the applicant filed his/her initial TPS application with the Immigration and Naturalization Service, now Citizenship and Immigration Services (CIS), on January 7, 2002.

The burden of proof is upon the applicant to establish that he 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 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 applicant indicated on his Form I-821, Application for Temporary Protected Status, that he entered the United States without inspection on January 5, 2001. In response to a request for evidence dated May 12, 2004, support of the application, the applicant submitted the following:

1. a photocopy of a billing statement from Duke Power in Charlotte, North Carolina, for the service period from July 24, 2003 to August 25, 2003;
2. a letter dated July 21, 2004, from [REDACTED] of DHT Golf Services in Plymouth, Massachusetts, stating that the applicant has been employed by his company since April 2004;

3. a photocopy of an earnings statement from [REDACTED] dated July 16, 2004;
4. a photocopy of an undated rental payment policy from [REDACTED], in Durham, North Carolina;
5. a photocopy of a letter dated July 7, 2003, from [REDACTED] regarding unpaid rent;
6. a photocopy of a leasing agreement between the applicant and [REDACTED], dated June 19, 2003;
7. a photocopy of a letter dated August 10, 2003, from Duke Power acknowledging receipt of a deposit for electric service;
8. a photocopy of a Rhode Island Identification Card issued on January 28, 2004; and,
9. a letter dated August 2, 2004, from [REDACTED] Payroll Manager for Kogok Corporation in Forestville, Maryland, stating that the applicant was employed by her company as a sheet metal helper from August 21, 2001 to March 26, 2003.

On November 29, 2004, the applicant was again requested to submit additional evidence establishing his qualifying continuous residence and continuous physical presence in the United States during the requisite periods. The record does not contain a response from the applicant.

The director determined that the applicant had failed to submit sufficient evidence to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite periods and denied the application on February 7, 2005.

On appeal, the applicant states that he tried to get evidence relating to his employment for [REDACTED], but he was paid in cash and does not have pay stubs to establish his employment for that company. He further states that he was unable to get an apartment lease in his own name because he didn't have a valid Social Security number, but he was able to obtain a lease using the name of his brother, [REDACTED]. He submits the following:

10. photocopies of earnings statements from Kogok Corporation dated: August 31, 2001; September 7, 2001; September 14, 2001; and, September 21, 2001;
11. a letter from [REDACTED], Shop Foreman for Kogok Corporation, stating that the applicant worked for his company from August 8, 2001 to March 26, 2003; and,
12. another copy of No. 2 above.

The applicant has not submitted any evidence to establish his qualifying continuous residence and continuous physical presence in the United States prior to August 31, 2001. The Duke Power billing statement (No. 1

above), the employment letter from DHT Golf Services (No. 2 above), the earnings statement from DHT Golf Services (No. 3 above), the July 7, 2003, letter from [REDACTED] (No. 5 above), the lease agreement (No. 6 above), the letter from Duke Power dated August 10, 2003 (No. 7 above), and the Rhode Island Identification Card (No. 8 above) are all dated after the requisite periods to establish continuous residence and continuous physical presence in the United States.

The rental payment policy document (No. 4 above) has no evidentiary weight because it is undated. The employment letters from Kogok Corporation (Nos. 9 and 11 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, neither letter is in affidavit format, and neither Mr. [REDACTED] nor Ms. [REDACTED] provides the address where the applicant resided during the period of his employment.

The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. 8 C.F.R. § 244.9(b). It is determined that the documentation submitted by the applicant is not sufficient to establish that he satisfies the residence and physical presence requirements described in 8 C.F.R. § 244.2(b) and (c). Consequently, the director's decision to deny the application for temporary protected status will be affirmed.

Beyond the decision of the director, the applicant has not submitted sufficient evidence to establish his identity and nationality. 8 C.F.R. § 244.9(a)(1). Therefore, the application also must 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.