

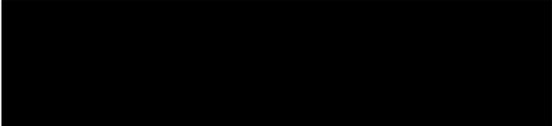


U.S. Citizenship
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FILE:



Office: VERMONT SERVICE CENTER

Date: OCT 03 2006

[EAC 02 245 50538]

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, Chief
Administrative Appeals Office

DISCUSSION: The initial application was denied by the Director, Vermont Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is stated to be a native and citizen of El Salvador who is applying for Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254.

On January 4, 2005, 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 February 11, 2005, the applicant filed an appeal of the director's decision. The director considered the appeal a motion to reopen the January 4, 2005 decision. On August 22, 2005, the director affirmed the prior decision, finding the evidence submitted by the applicant did not establish continuous residence and continuous physical presence in the United States during the required time period.

On appeal, the applicant resubmits the same evidence as he submitted with his motion to reopen. In addition, the applicant submits three affidavits from people who claim the applicant has been residing in the United States since 1999.

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 designated by the Attorney General 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 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. Subsequent extensions of the TPS designation have been granted, with the latest extension valid until September 9, 2007, 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 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).

On July 15, 2002, the applicant filed his initial TPS application along with his birth certificate, two pay stubs from Miller & Long Co., Inc., for pay periods ending December 30, 2000 and December 15, 2000, and two Bank of America statements dated December 20, 2000 and November 21, 2000.

The director determined that the applicant had failed to submit sufficient evidence to establish his eligibility for TPS and denied the application on January 4, 2005.

On appeal, the applicant reasserts his claim, resubmits the same evidence as was submitted with his motion to reopen, and three affidavits. The first affidavit, from [REDACTED] states the applicant has been working for Mr. [REDACTED] company since May 1999. The second affidavit, from [REDACTED] states the applicant and

[REDACTED] have known each other since May 1999. The third affidavit, from [REDACTED] states the applicant lived with [REDACTED]s and her husband from May 1999 until July 2003.

The applicant's appeal consists of affidavits relating to his claim of residence since February 13, 2001, and physical presence since March 9, 2001, in the United States. However, affidavits are not, by themselves, persuasive evidence of residence or physical presence. These affidavits 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)(v). Specifically, the affidavits are not supported by corroborative evidence.

The applicant has not submitted sufficient credible evidence to establish his qualifying residence in the United States since February 13, 2001, or his physical presence in the United States since March 9, 2001. He has, thereby, failed to establish that he has met the 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.

It is noted that with his initial TPS application, the applicant provided copies of two pay stubs from Miller & Long Co., Inc., for pay periods ending December 30, 2000 and December 15, 2000, and two Bank of America statements dated December 20, 2000 and November 21, 2000. After careful review of the documents, it appears the two pay stubs and two bank statements have been altered. On the pay stubs, the employee name, Social Security number, employee number, and pay period ending dates are in a different font from the rest of the document. On the Bank of America statements, it appears that the original names and dates have been covered-over and the applicant's information and new dates have been inserted in their place. Additionally, the two statements appear to be identical except for the dates of the statements. Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988).

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.

ORDER: The appeal is dismissed.