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**U.S. Citizenship
and Immigration
Services**

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OCT 31 2006

FILE:

Office: VERMONT SERVICE CENTER

Date:

[EAC 01 185 51138]

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:

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 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 withdrew the applicant's Temporary Protective Status.

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.
- (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 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 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 reveals that the applicant filed a TPS application during the initial registration period under CIS receipt number EAC 01 185 51138. The director approved that application on November 16, 2001. On August 2, 2005, the director withdrew the applicant's Temporary Protective Status because border patrol officers had apprehended the applicant after illegally entering the United States on June 14, 2004. The director noted that the former approval was withdrawn because the applicant had not remained continuously in the United States from the date that he was first granted Temporary Protected Status under the Act. 8 C.F.R. § 244.14(a)(2).

On appeal, the applicant states that he has remained continuously in the United States, that he requested travel authorization, and that he confused the date in which he was to return to the United States.

The applicant submits a copy of his TPS approval notice, employment authorization card, social security card, Affinity Health Plan statement, IRS Form W-2, Wage and Tax Statement for 2004, and INS Notice of Custody Determination dated June of 2004.

The applicant has failed to submit any evidence to demonstrate that he has continuously remained in the United States. The record shows that border patrol officers apprehended the applicant on June 15, 2004, while he was attempting to enter the United States illegally. The applicant has failed to submit evidence to establish that he had permission to leave the United States (I-512 Advance Parole status), via an exit visa or a stamped passport.

The evidence submitted fails to document the applicant's continuous physical presence and continuous residency in the United States since he was granted TPS. He has, thereby, failed to establish that he has met the criteria described in 8 C.F.R. § 244.14(a)(2). Consequently, the director's decision to withdraw the application for TPS will be affirmed.

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.