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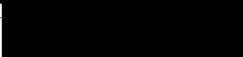


**U.S. Citizenship
and Immigration
Services**

MA



FILE:



Office: VERMONT SERVICE CENTER

Date: **OCT 31 2006**

[EAC 02 250 54220]

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, reopened, and denied again 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 applying for Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254.

The director initially terminated the application on June 4, 2003, because the applicant failed to respond to a request for additional evidence dated May 14, 2003.

On January 23, 2004, the applicant filed a motion to reopen the case. On motion, the applicant stated that he never received the request for additional evidence. The applicant submitted evidence in an attempt to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite periods.

On December 21, 2004, the director reopened the case and provided the applicant with another opportunity to submit additional evidence to establish 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 denied the application again on February 28, 2005, 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 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 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. On July 9, 2002, the Attorney General announced an extension of the TPS designation until September 9, 2003. 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 valid until September 9, 2007, upon the applicant's re-registration during the requisite period.

The initial registration period for Salvadorans was from March 9, 2001 through September 9, 2002. The applicant filed his initial TPS application on July 26, 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 in November 2000. In support of his application, the applicant submitted the following evidence:

1. an affidavit dated June 8, 2002, from [REDACTED] stating that he has known the applicant since December of 2000.

On May 14, 2003, the applicant was requested to submit additional evidence to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite periods. The notice was mailed to the applicant's address of record, but the record does not contain a response from the applicant.

The director determined that the applicant had abandoned his application by failing to respond to the request for additional evidence and terminated the application on June 4, 2003.

On January 23, 2004, the applicant filed a motion to reopen the case. The applicant stated that he never received the request for additional evidence and submitted the following evidence:

2. an affidavit dated December 18, 2003, from [REDACTED] stating that the applicant has been a tenant in his property located at [REDACTED] Brighton, Massachusetts, since the end of November 2000; and,
3. an affidavit dated December 19, 2003, from [REDACTED] stating that the applicant worked for him as a painter from December 2000 until June 2001.

The director reopened the case on December 21, 2004, and provided the applicant with another opportunity to submit additional evidence to establish 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 eligibility for TPS and denied the application again on February 28, 2005.

On appeal, the applicant states that he submitted the requested evidence and was issued a new Employment Authorization Card, but he does not submit any additional evidence to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite period.

Without corroborative evidence, the affidavits from [REDACTED] (No. 1 above) and [REDACTED] (No. 2 above) are not sufficient to establish the applicant's qualifying continuous residence and continuous physical presence. Moreover, affidavits are only specifically listed as acceptable evidence of employment and membership in organizations such as churches or labor unions as described at 8 C.F.R. § 244.9(a)(2)(i) and (v).

The applicant has not submitted sufficient evidence to establish his qualifying continuous residence and continuous physical presence in the United States throughout the requisite periods. 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.

Beyond the decision of the director, the applicant has not submitted an official Salvadoran photo identification document to establish his identity and nationality as set forth at 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 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.