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**U.S. Citizenship  
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Services**

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FILE:



Office: VERMONT SERVICE CENTER

Date: **SEP 06 2006**

[EAC 01 201 57413]

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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

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 is 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 his continuous residence and his continuous physical presence in the United States during the requisite periods.

It is noted that the record contains a G-28, Notice of Entry of Appearance as Attorney or Representative, from [REDACTED]. However, the U.S. Department of Justice, Executive Office for Immigration Review, Recognition and Accreditation Roster does not list either [REDACTED] or the Immigration Community Services in Brentwood, New York as recognized entities. Consequently, the applicant will be considered self-represented.

On appeal, the applicant provides a brief statement and two additional documents.

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 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.
- (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 issues raised by the director to be addressed in this proceeding are whether the applicant has established his continuous residence in the United States since February 13, 2001, and his continuous physical presence in the United States since March 9, 2001.

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 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 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).

In a notice of action (Form I-797), dated November 7, 2002, the applicant was requested to submit evidence of his continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States since March 9, 2001. The applicant failed to respond to the notice of action.

In a notice of intent to deny, dated May 30, 2003, the applicant was requested to submit evidence of his continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States since March 9, 2001. In response, the applicant submitted two affidavits.

The director found that the affidavits “by themselves are not sufficient to establish that you have met the requirements for the benefits sought.” The director denied the application on August 11, 2003. The applicant was given 30 days (33 days if the notice was received by mail) to file an appeal.

The applicant filed a “motion to reopen or reconsider” on March 15, 2004, seven months after the allotted timeframe.

In a notice of intent to deny, dated January 3, 2005, the applicant was provided another opportunity to submit evidence to establish his continuous residence and continuous physical presence in the United States during the requisite timeframes. The applicant failed to respond to the notice of intent to deny.

The director found that as the applicant failed to respond to the notice of intent to deny, he did not overcome the grounds for denial. The director denied the application on March 16, 2005. The applicant was given 30 days (33 days if the notice was received by mail) to file an appeal.

On appeal, the applicant states that he is very much interested in pursuing the benefits of TPS. The applicant also states that he is having extreme difficulty in obtaining evidence to prove his physical presence in the United States. The applicant submits: a letter from [REDACTED] who states that the applicant was a member of his church from January 2001 through March 2003; a letter, dated March 5, 2005, from [REDACTED] who states that he has known the applicant “for the past 6 years;” a letter from [REDACTED] who states that she met the applicant in February of 1999 in the Iglesia de Dios Manantiales de Vida Eternal Church; and a letter from [REDACTED] who states that she has known the applicant since January of 2000.

The applicant has provided insufficient documentation on appeal to establish his continuous residence in the United States since February 13, 2001, and his continuous physical presence in the United States since March 9, 2001. The affidavits provided on appeal, without supporting documentary evidence such as medical records, utility bills, employee records, earnings statements, insurance records, and bank records, are not sufficient in meeting the burden of proof in these proceedings. *See Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972). The applicant has not established that he has met the continuous residence and continuous physical presence criteria described in 8 C.F.R. § 244.2 (b) and (c). Consequently, the director’s decision to deny the application for temporary protected status for these reasons 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.