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U.S. Citizenship
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FILE: [REDACTED] OFFICE: CALIFORNIA SERVICE CENTER DATE: **SEP 26 2006**
[SRC 01 213 56416]

IN RE: Applicant: [REDACTED]

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 "R. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, California 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 had failed to submit sufficient evidence to establish that he had continuously resided in the United States since February 13, 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 alien 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 § 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.

The term *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.

The term *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.

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. 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 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 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 shows that the applicant filed his TPS application on May 9, 2001. To support his application, the applicant submitted a statement dated April 20, 2001, from [REDACTED] indicating that the applicant has been his employee since December 1999. The director noted that the applicant failed to submit any evidence to show that he was in fact employed since 1999, and concluded that the applicant failed to submit sufficient evidence to establish continuous residence in the United States since February 13, 2001, and denied the application on August 3, 2004.

On appeal, the applicant asserts that he is not required to submit evidence that he has been residing here since 1999; rather, he is required only to prove continuous residence since February 13, 2001, and that he did in fact submit and is submitting evidence of continuous residence since that date. He submits the following:

1. Copies of "[REDACTED] Soccer League" identification cards issued on June 20, 1997, April 8, 1998, and August 25, 1999.
2. A copy of a Statement of Security Deposit Accounts dated February 12, 2001, addressed to [REDACTED] for lease of Unit 01-104 beginning November 1, 1999, with a move-out date of February 4, 2001.
3. Copies of what appears to be pay statements dated April 25, 2001; May 23, 2001; June 6, 2001; May 30, 2001; June 13, 2001; June 20, 2001; June 27, 2001; July 1, 2001, July 11, 2001; July 18, 2001, July 25, 2001, August 1, 2001; and October 18, 2001.
4. A copy of an El Salvadoran passport issued to the applicant on February 20, 2001, in Los Angeles, California.

5. Copies of a State of Georgia driver's license issued on November 29, 2001; a State of California driver's license issued on May 10, 2002; and a State of California identification card issued on May 10, 2002.
6. A copy of a receipt from La Curacao dated December 16, 2001.
7. Copies of various receipts for payments made dated January 27, 2002; March 11, 2002; July 8, 2002; and September 3, 2002.

The identification cards issued by the ██████████ Soccer League (No. 1 above) are dated prior to the requisite period required to establish residence and physical presence. The applicant, on appeal, asserts that the February 12, 2001, security deposit statement (No. 2 above) is an account for payments of his apartment; however, the name of the applicant does not appear on this document. While the applicant also states on appeal that he is submitting payroll records, it is noted that the documents presented (No. 3 above) do not appear to be payroll records. Each of these dated documents consists of only the number of the document, the name of The Russell Corporate Groups, Inc., the name of the applicant ██████████ TEMPL), and an amount. The applicant could have furnished a letter of employment from The Russell Corporate Groups, Inc., if this company is, in fact, his employer. The documents listed in Nos. 5, 6, and 7 above are dated subsequent to the filing of his TPS application on May 9, 2001. While it is noted that the applicant was issued a passport on February 20, 2001, the applicant has submitted insufficient evidence to establish continuous residence since February 13, 2001, and continuous physical presence from March 9, 2001, to the date of filing the application.

The applicant has failed to establish that he has met the criteria for continuous residence in the United States since February 13, 2001. 8 C.F.R. § 244.2(c). Additionally, the applicant has failed to establish that he has met the criteria for continuous physical presence in the United States since March 9, 2001. 8 C.F.R. § 244.2(b). Consequently, the director's decision to deny the application 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.