



U.S. Citizenship
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Services

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FILE: [REDACTED]
[EAC 02 179 51318]

Office: Vermont Service Center

Date: **APR 04 2007**

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.

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 denied the application because the applicant failed to establish 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 appeal the applicant reasserts his eligibility and submits 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 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 continuous residence in the United States since February 13, 2001, and continuous physical presence 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 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 applicant, provided the following documentation relevant to the time in question:

1. Letter, dated April 28, 2002, signed by [REDACTED] stating that the applicant has resided at [REDACTED], since December of 2000.
2. Letter, dated April 28, 2002, signed by [REDACTED] stating he has known the applicant since December of 2000.

On April 28, 2003, the applicant was requested to submit evidence establishing his continuous residence since February 13, 2001, and continuous physical presence since March 9, 2001, in the United States as well as his date of entry into the United States. In response the applicant provided the following documentation:

1. Letter, dated May 27, 2003, signed by [REDACTED] stating that the applicant was renting a room from him at [REDACTED] from January of 2001, until January of 2002.
2. Letter, dated May 27, 2003, signed by [REDACTED] stating that the applicant arrived in January of 2001 and shortly thereafter began working for his company.

The director determined that the applicant had failed to submit sufficient evidence to establish his eligibility for TPS and denied the application on August 26, 2003.

On appeal, the applicant reasserts his claim and submits the following documentation:

1. Letter, dated September 3, 2003, signed by [REDACTED] Accountant for SMS Construction, Inc., stating the applicant worked for the company from March 6, 2001, to January 18, 2002, and again from January 22, 2002, to [date of the letter].
2. Letter, dated September 6, 2003, signed by [REDACTED] stating that the applicant entered the United States prior to January of 2001, and has resided in Virginia without interruption since that time.
3. Letter, dated September 5, 2003, signed by [REDACTED] stating that the applicant was renting a room from him at [REDACTED] from January of 2001, until January of 2002.
4. Letter, dated September 8, 2003, signed by [REDACTED] stating the applicant entered the United States prior to January of 2001, and knows these facts because the applicant lives at the same address as her, [REDACTED]
5. Letter, dated September 8, 2003, signed by [REDACTED] stating the applicant entered the United States prior to January of 2001, and knows these facts because the applicant lives at the same address as he, [REDACTED]

The letters provided by the applicant are not supported by any other corroborative evidence. While 8 C.F.R. § 244.9(a)(2)(vi) specifically states that additional documents such as letters "may" be accepted in support of the applicant's claim, the regulations do not suggest that such evidence alone is sufficient to establish the applicant's qualifying residence or physical presence in the United States. In this case the letters are of a generic, uniform nature, and are inconsistent. The letter from [REDACTED] claims that the applicant rented a room from him on [REDACTED], while other letters claim that the applicant has lived without interruption at the [REDACTED]. The applicant claims to have lived in the United States since December 25, 2000. It is reasonable to expect that the applicant would have some other type of contemporaneous evidence to support these letters, such as documentary evidence explaining how he made it from Phoenix, Arizona, a city not on the border of Mexico, to Arlington, Virginia, in one week such that the individuals above came into the applicant's acquaintance. However, no such evidence has been provided. The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. 8 C.F.R. § 244.9(b).

The applicant has not submitted sufficiently probative evidence to establish his qualifying continuous residence or continuous physical presence in the United States from prior to February 13, 2001 until the date of his TPS application filing. 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.

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.