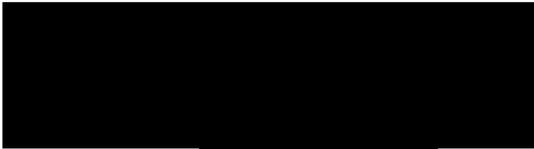




U.S. Citizenship
and Immigration
Services

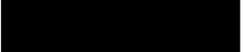
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FILE:



Office: Vermont Service Center

Date:

APR 04 2007

[EAC 01 237 52925]

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 by the Director, Vermont Service Center. A subsequent appeal was dismissed by the Director, Administrative Appeals Office. The matter is now before the Administrative Appeals Office (AAO) on a motion to reopen. The case will be reopened and the appeal again 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 continuously resided in the United States since before February 13, 2001.

A subsequent appeal from the director's decision was dismissed on July 1, 2005, after the Chief of the AAO concluded that the applicant had failed to establish that he continuously resided in the United States since before February 13, 2001. On motion to reopen, the applicant asserts his eligibility and states that he did not understand how to submit evidence on prior occasions, and has submitted additional affidavits in support of his assertions of residency during the required period.

The applicant appears to be represented; however, the record does not contain Form G-28, Notice of Entry of Appearance as Attorney or Representative. Therefore, the applicant shall be considered as self-represented and the decision will be furnished only to the applicant.

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 record contains copies of the applicant's Salvadoran passport, Virginia ID card from May 21, 2001, tax forms, pay stubs from September to December 2001, and Western Union money transfer receipts from May to November 2001. The AAO addressed the insufficiency of this evidence in its decision dated July 2005. In response the applicant submitted a motion to reopen and submitted the following additional evidence:

1. Letter, dated July 14, 2005, signed by [REDACTED] attesting that the applicant rented a room from her in Washington, DC, from January 2000 to December 2000.
2. Letter, dated July 15, 2005, signed by [REDACTED], attesting that the applicant rented a room from her in Washington, DC, from December 2001 to December 2002.
3. Letter, dated July 17, 2005, signed by [REDACTED], attesting that the applicant lived in the same building as he did in Washington, DC, during the year 2001.
4. Letter, dated July 16, 2005, signed by [REDACTED], attesting that he has known the applicant since February of 2000 and that they have attended many social events and family events during 2001.
5. Letter, dated July 14, 2005, signed by [REDACTED] attesting that he has known the applicant since the year 2000.
6. Letter, dated July 14, 2005, signed by [REDACTED] attesting that he has known the applicant since the year 2000.
7. Copy of the applicant's current lease, dated 2005.

The letters provided by the applicant are not supported by any other corroborative, contemporaneous 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 necessarily sufficient to establish the applicant's qualifying residence or physical presence in the United States. In this case the letters have been written years after the dates to which they attest, and are such a general nature as to not provide useful verifiable information. The applicant claims to have lived in the United States since 1995. It is reasonable to expect that the applicant would have some other type of contemporaneous evidence to support these letters; 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).

It is determined that the documentation submitted by the applicant is not sufficient to establish that he satisfies the residence and physical presence requirements 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.