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OFFICE: Vermont Service Center

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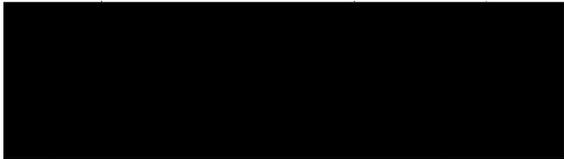
Applicant:



APPLICATION:

Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT:



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. It is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is 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 on the grounds that the applicant failed to establish that he had continuously resided in the United States since February 13, 2001, and been continuously physically present in the country since March 9, 2001.

On appeal the applicant submits additional documentation pertinent to his residence and physical presence in the United States.

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.
- (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 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. The initial registration period for El Salvadorans was from March 9, 2001 through September 9, 2002.

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). See 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. See 8 C.F.R. § 244.9(b).

The applicant filed his first Form I-821, Application for Temporary Protected Status, on May 25, 2001. It was denied by the director on the ground of abandonment on August 6, 2001. On September 6, 2002, still during the initial registration period for El Salvadoran nationals, the applicant filed another TPS application. It was denied by the director on November 19, 2003, on the grounds that the evidence submitted by the applicant failed to establish that he had continuously resided in the United States since February 13, 2001. The applicant filed an appeal, which was dismissed by the AAO on February 14, 2005.

The applicant filed his current TPS application on May 12, 2005. In a notice of intent to deny dated January 6, 2006, the director advised the applicant to submit documentary evidence to show that he had continuously resided in the United States since February 13, 2001, and been continuously physically present in the United States since March 9, 2001. The applicant responded with some additional documentation.

On July 29, 2006, the director denied the application on the grounds that the additional documentation failed to establish that the applicant had continuously resided in the United States since February 13, 2001 and been continuously physically present in the country since March 9, 2001. In particular, the director stated that there was no contemporary documentation dated between 1999 and August 2001, and that the affidavits and letters from acquaintances were not persuasive evidence in and of themselves that the applicant was continuously resident and continuously physically present in the United States from the requisite dates in February and March 2001. The AAO concurs with the director's decision that the documentation of record was insufficient to establish the applicant's continuous residence in the United States from February 13, 2001, and continuous physical presence in the United States from March 9, 2001.

On appeal the applicant points out that his initial TPS application was filed on May 25, 2001, and that he was issued an Employment Authorization Card on June 26, 2001. As further evidence that he was a resident of and physically present in the United States from February and March 2001, respectively, the applicant submits three new letters from acquaintances in the United States, a letter from the Salvadoran Red Cross, a photograph, and a letter from the Social Security Administration. One of the letters from acquaintances in the United States is from a church pastor, dated July 12, 2006, who states that the applicant and his wife "are parishioners of this church where their child . . . who was born on August 17, 2001 was baptized on June 21, 2003." There is no evidence that the pastor held that position in the church as early as 2001, however, and that he has firsthand knowledge of the applicant's participation in the church from that year. The pastor does not state where the applicant was living in 2001 and in subsequent years. The other two letters from acquaintances are from a dentist, who states that the applicant has been a patient of his since January 2001, and from a married couple who state that they have known the applicant since 2000. As indicated by the director in his decision, letters from acquaintances are not, by themselves, persuasive evidence of the applicant's continuous residence and continuous physical presence in the United States. The applicant claims that the photograph of himself submitted on appeal, showing him in a snowy landscape, is dated January 2001 on the back. The stamp on the back of the photo reads "Jan 01 181 NNNA." While that might indicate the photo was taken in January 2001, it does not indicate where the photo was taken and does not establish that the applicant was residing in the United States at that time.

The letter from the Salvadoran Red Cross is addressed to the applicant at 1261 Central Avenue in Far Rockaway, New York – his current address – and bears a stamp on the back dated February 2001. The date stamp is too illegible to determine the entity's identity. Moreover, the authenticity of the stamp appears doubtful considering the fact that the applicant's address in 2001 was [REDACTED], New York. As for the letter to the applicant from the Social Security Administration (SSA), it is dated August 26, 2002. The applicant has not explained why the photocopied envelope addressed to him from the SSA, which he submitted with the letter, is dated July 14, 2001. It is incumbent upon an applicant to resolve any inconsistencies in the record by independent objective evidence. Attempts to explain or reconcile such inconsistencies will not suffice without competent evidence pointing to where the truth lies. *See Matter of Ho*, 19 I&N Dec. 582, 591-92, (BIA 1988). Moreover, doubt cast on any aspect of the applicant's evidence reflects on the reliability of the petitioner's remaining evidence. *See id.*

Based on the foregoing analysis, the AAO determines that the documentation submitted by the applicant fails to establish that he was continuously physically present in the United States from March 9, 2001, and continuously resident in the United States from February 13, 2001, as required for TPS applicants from El

Salvador under 8 C.F.R. § 244.2(b) and (c). Accordingly, the director's denial of the application on those grounds 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 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 that burden.

**ORDER:** The appeal is dismissed.