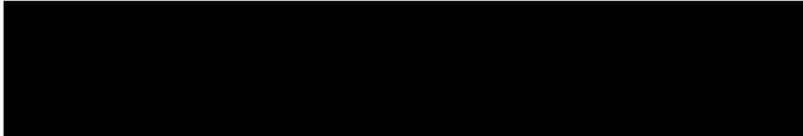




U.S. Citizenship  
and Immigration  
Services

**PUBLIC COPY**

identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy



*ML*

FILE:



OFFICE: CALIFORNIA SERVICE CENTER

DATE: JUL 02 2007

[WAC 05 138 71644]

IN RE:

Applicant:



APPLICATION:

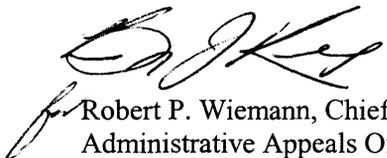
Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

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, 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 establish: (1) that he was eligible for late registration; (2) his nationality and identity; and (3) that he had continuously resided in the United States since February 13, 2001, and had been continuously physically present in the United States from March 9, 2001, to the date of filing the application.

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.

- (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 condition described in paragraph (f)(2) of this section.

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 initial registration period for El Salvadorans was from March 9, 2001, through September 9, 2002. The record shows that the applicant filed his initial application on February 15, 2005.

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 first issue in this proceeding is whether the applicant is eligible for late registration.

The record of proceeding confirms that the applicant filed his application after the initial registration period had closed. To qualify for late registration, the applicant must provide evidence that during the initial registration period he fell within at least one of the provisions described in 8 C.F.R. § 244.2(f)(2) above.

In a Notice of Intent to Deny (NOID) dated May 15, 2006, the applicant was requested to submit evidence establishing his eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2). The applicant was also requested to submit evidence to establish nationality and identity, and evidence to establish continuous residence in the United States since February 13, 2001, and continuous physical presence from March 9, 2001, to the date of filing the application. The director noted that the evidence furnished in response to the NOID was insufficient to establish eligibility for late registration, and denied the application on August 7, 2006.

On appeal, the applicant requests that his case be reopened and submits evidence in an attempt to establish his qualifying continuous residence and continuous physical presence in the United States. However, this evidence does not mitigate the applicant's failure to file his Application for Temporary Protected Status within the initial registration period.

The applicant neither addressed nor submitted any evidence to establish that he has met any of the criteria for late registration described in 8 C.F.R. § 244.2(f)(2). Consequently, the director's decision to deny the TPS application on this ground will be affirmed.

The second issue in this proceeding is whether the applicant has established his nationality and identity.

The applicant was requested on May 15, 2006, to provide documentation to establish his nationality and identity. In response, the applicant submitted a copy of his birth certificate with English translation, and a copy of an El Salvadoran passport issued to the applicant in Los Angeles, California, on January 27, 2006.

The applicant has, therefore, overcome this ground for denial.

The third issue in this proceeding is whether the applicant has established his continuous residence in the United States since February 13, 2001, and continuous physical presence from March 9, 2001, to the date of filing the TPS application.

As stated above, the applicant was requested on May 15, 2006, to submit evidence establishing his qualifying continuous residence and continuous physical presence in the United States. In response, the applicant submitted:

1. An undated letter from the Bank of America advising the applicant to mail the Activation Form for life insurance before July 13, 2006.
2. Copies of Gigante Express receipts dated November 16, 2003 and December 7, 2003.
3. Copies of "Side 1" of the California Resident Income Tax Returns, Form 540, for the years 2000 and 2001. This evidence cannot be accepted as the copies are incomplete and there is no evidence that the forms were, in fact, filed with the appropriate tax office.
4. A statement from [REDACTED] Pastor of Pentecostal Church of God, indicating that the applicant has been a member of the church since the year 2001.

The director determined that the evidence furnished in response to the NOID was insufficient to establish residence and physical presence in the United States, and denied the application on August 7, 2006.

On appeal, the applicant requests that his case be reopened. He submits:

5. A copy of a lease agreement for apartment # [REDACTED] at [REDACTED] Van Nuys, California, signed by [REDACTED] (manager or agent of LB Property Management) and [REDACTED] on January 1, 2000, for a "month to month" lease beginning January 1, 2000. Also submitted is a copy of a statement dated August 18, 2006, from [REDACTED] indicating that the applicant has been living at that address from 2000 to the present.

The statement from [REDACTED] (No. 4 above) has little evidentiary weight or probative value as it does not provide basic information that is expressly required by 8 C.F.R. § 244.9(a)(2)(v). Specifically, the letter was neither on a letterhead of the organization nor was the seal of the organization impressed on the letter; the pastor did not explain the origin of the information to which he attests, and how he knows the applicant; and

the pastor failed to show inclusive dates of the applicant's membership at the church, and the address or addresses where the applicant resided during the membership period.

The lease agreement and the letter from [REDACTED] (No. 5 above) appear to be not credible. While the lease agreement and the letter indicate that the applicant resided at [REDACTED], that address was not included or mentioned in any of the documents contained in the record of proceeding, including USCIS forms filed by the applicant, to show that he resides or had resided at that address. Furthermore, the signature of [REDACTED] (on the lease agreement) is different from the signatures of the applicant on all of the USCIS forms and other documentation contained in the record.

Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth, in fact, lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988). The applicant has failed to submit any objective evidence to explain or justify the discrepancy in the evidence he provided. Therefore, the reliability of the remaining evidence offered by the applicant is suspect.

The applicant has failed to establish that he has met the criteria for continuous residence since February 13, 2001, and continuous physical presence since March 9, 2001, as described in 8 C.F.R. § 244.2(b) and (c). Consequently, the director's decision to deny the TPS application on these grounds will also 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.