

**identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy**

U.S. Department of Homeland Security
20 Massachusetts Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

MA 1

PUBLIC COPY

[REDACTED]

FILE: [REDACTED] OFFICE: Nebraska Service Center DATE: JUL 19 2007
[WAC 02 041 50630]

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, Nebraska Service Center (NSC). It is now on appeal before the Administrative Appeals Office (AAO). 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 submit a copy of his birth certificate or passport, as evidence of his identity and nationality, and failed to establish that he had continuously resided in the United States since February 13, 2001, and been physically present in the country since March 9, 2001.

On appeal the applicant submits some additional documentation.

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.

El Salvadoran nationals applying for TPS 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 record shows that the applicant filed his initial Form I-821, Application for Temporary Protected Status, on November 7, 2001, during the initial registration period for El Salvadoran nationals. On October 8, 2003, the Nebraska Service Center issued a Request for Evidence (RFE), advising the applicant to submit a copy of his birth certificate or passport, as well as documentary evidence of his continuous residence in the United States since February 13, 2001, and continuous physical presence in the country since March 9, 2001. The applicant did not respond to the RFE by the indicated date of December 31, 2003. It is noted that the applicant had previously been requested to submit the same types of evidence by the California Service Center on March 26, 2002, and July 29, 2002.

On February 25, 2004, the NSC Director issued a decision denying the application on the grounds that the applicant had not established his continuous residence in the United States since February 13, 2001 and his continuous physical presence in the country since March 9, 2001, and had not submitted a copy of his passport or birth certificate

On appeal, the applicant – who claims to have entered the United States without inspection on December 12, 2000 – submits some documentation pertaining to his residence and physical presence in the United States, including:

- A photocopy of an Employment Authorization Card issued to the applicant in 2004.
- An airline ticket receipt issued to the applicant by Vanguard Airlines in Los Angeles, California, on February 14, 2002.
- A customer receipt made out to the applicant by L.A. Madrid Travel & Furniture, in Los Angeles, California, dated January 10, 2001.
- A statement from an individual in Los Angeles, California, dated March 7, 2004, who states that he has known the applicant since 2000 and that the applicant resided in his house in Los Angeles for about one year.
- A statement from another individual in Los Angeles, California, dated March 13, 2004, who states that the applicant worked in his auto repair shop from January 5, 2001, to February 25, 2001.

The first two items do not show that the applicant was in the United States during 2001. As for the third item – the receipt from L.A. Madrid Travel & Furniture – it was neither signed nor dated in the appropriate spots by an official of the company. There is no stamp or other identifying mark on the document verifying that it is an authentic bill of the company and that it was actually written on January 10, 2001. Thus, the receipt is not persuasive evidence that the applicant was resident and physically present in the United States on January 10, 2001. As for the last two items, letters from acquaintances are not, in and of themselves, persuasive evidence of an alien's continuous residence and continuous physical presence in the United States. (The same applies to two earlier letters from acquaintances, dated in late August 2001, that were submitted with the initial application.)

The applicant has not submitted sufficient documentation of the types enumerated in 8 C.F.R. § 244.9(a)(2) to establish that he has been continuously physically present in the United States since March 9, 2001, and a continuous resident of the United States since February 13, 2001, as required for El Salvadoran nationals under 8 C.F.R. § 244.2(b) and (c). Accordingly, the decision of the NSC Director denying the application for TPS will be affirmed on those grounds.

It is noted that the applicant has submitted a photocopy of his passport, issued in El Salvador on June 1, 2000, thereby establishing his identity and nationality and overcoming the director's finding that he did not comply with that request for evidence.

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.