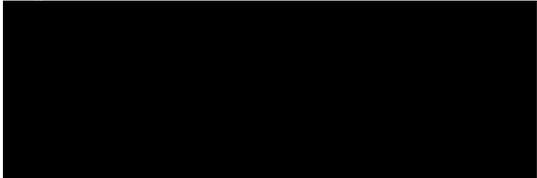


identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy



U.S. Citizenship  
and Immigration  
Services

**PUBLIC COPY**



M1

FILE:



Office: VERMONT SERVICE CENTER

Date: **JUL 27 2007**

[EAC 04 111 51807]

IN RE:

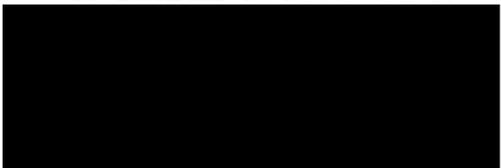
Applicant:



APPLICATION:

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

ON BEHALF OF APPLICANT:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the California Service Center. 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 (VSC), and is now before the Administrative Appeals Office (AAO) 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 failed to establish that he had been continuously residing in the United States since February 13, 2001, and that he had been continuously physically present in the United States since March 9, 2001. The director also determined that the applicant had failed to establish that he was eligible for late registration.

On appeal, counsel for the applicant provides a brief statement.<sup>1</sup>

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 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 section 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;

---

<sup>1</sup> It is noted that although counsel indicates on appeal that the applicant notified the Service of a change of address from New Jersey to Texas in early July 2004, the record does not contain a change of address card. The applicant did not notify CIS of his new address until May 4, 2005, when filing an application for TPS re-registration (see footnote 2).

- (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 entry on or prior to February 13, 2001, 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. The initial registration period for El Salvadorans was from March 9, 2001, through September 9, 2002. The record reflects that the applicant filed his initial TPS application on October 14, 2003, more than one year and one month after the initial registration period had ended.

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.

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 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 own statements. 8 C.F.R. § 244.9(b).

In support of his application, the applicant submitted a photocopy of his El Salvadoran birth certificate, with English translation, and a letter, dated September 12, 2003, from JMP Construction LLC, Rahway, New Jersey, stating that the applicant had been employed since 2000.

In a notice of intent to deny, dated March 10, 2004, the applicant was requested to submit evidence of his eligibility for late registration. The applicant was also requested to submit evidence to establish his qualifying continuous residence and his continuous physical presence in the United States during the requisite timeframes. The applicant did not respond to the notice of intent to deny.<sup>2</sup>

The director found that the applicant failed to establish his eligibility for late registration. The director also found that the applicant failed to establish his qualifying continuous residence in the United States since February 13, 2001, and his continuous physical presence in the United States since March 9, 2001. The director denied the application on July 15, 2004.

The first issue raised by the director to be addressed in this proceeding is whether the applicant is eligible for late registration.

The record of proceeding confirms that the applicant filed his application for TPS on October 14, 2003, after the initial registration period had ended. No documentary evidence has been presented on appeal to establish that the applicant has met the requirements for late registration as described in 8 C.F.R. § 244.2(f)(2) and 8 C.F.R. § 244.2(g). Consequently, the director's decision to deny the TPS application for this reason will be affirmed.

The remaining issues raised by the director to be addressed in this proceeding are whether the applicant has continuously resided in the United States since February 13, 2001, and has been continuously physically present in the United States since March 9, 2001.

As previously stated in the above-mentioned notice of intent to deny, the applicant was requested to submit evidence of his continuous residence and his qualifying continuous physical presence in the United States during the required timeframes. The director, in his decision dated July 15, 2004, found that the applicant failed to establish his continuous residence and continuous physical presence in the United States during the requisite periods and, therefore, denied the application.

On appeal, the applicant has provided no additional documentary evidence to demonstrate that he has been continuously residing in the United States since February 13, 2001, and that he has been continuously physically present in the United States since March 9, 2001. Consequently, the director's decision to deny the application for temporary protected status for these reasons will be affirmed.

---

<sup>2</sup> The applicant filed an application for TPS re-registration with the California Service Center (CSC) on May 4, 2005 (WAC 05 216 8574 relates). In support of that application, counsel submitted a photocopy of the previously submitted employment letter, an affidavit from an acquaintance of the applicant, and the applicant's 2003 and 2004 Internal Revenue Service (IRS) Forms W-2, Wage and Tax Statements. The re-registration application was denied by the CSC on August 16, 2005. A decision on an appeal from that decision, filed on September 15, 2005, will be provided under separate cover.

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.