

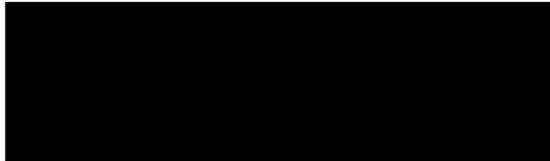


U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
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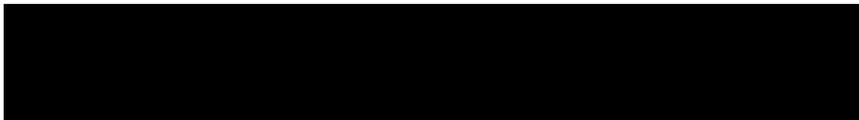
OFFICE: VERMONT SERVICE CENTER

DATE: JUN 25 2007

IN RE: Applicant: [REDACTED]

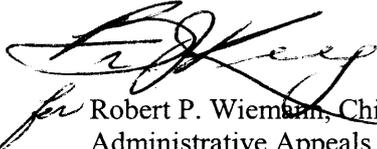
APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT:



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.


for Robert P. Wieman, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Vermont 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 that he had continuously resided in the United States since February 13, 2001, and had been continuously physically present from March 9, 2001, to the date of filing the application.

On appeal, the applicant submits a statement and additional evidence, including evidence previously furnished and contained in the record.

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 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 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 June 27, 2005. 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.

It is noted that the applicant has established that he was eligible for late initial registration under 8 C.F.R. § 244.2(f)(2)(ii) because he had an application for asylum that was pending during the initial registration period for El Salvadorans. The record indicates that on February 5, 1996, the applicant filed Form I-589, Application for Asylum and for Withholding of Deportation. On June 22, 2005, the applicant withdrew his application for asylum. On June 27, 2005, within the 60-day period immediately following the expiration or termination of condition described in 8 C.F.R. § 244.2 (f)(2), and as required in 8 C.F.R. § 244.2(g), the applicant filed his TPS application.

In support of his initial TPS application, the applicant submitted copies of utility bills for gas dated from April 2001 to November 2001; a Verizon telephone bill dated December 3, 2001; and a one-year lease agreement (from April 1, 2001 to March 31, 2002) for an apartment signed by the applicant and his landlord on April 1, 2001.

In a Notice of Intent to Deny the TPS application, dated February 21, 2006, the applicant was requested to submit additional 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 applicant failed to respond; therefore, the director denied the application on May 11, 2006.

On appeal, the applicant requests that his case be reopened and considered for approval because he entered the United States on June 15, 1995, he has continuously resided and worked in this country, and that he has complied with all the requirements requested. He resubmits the documents listed above, and also submits additional utility bills and telephone bills dated from June 1999 to March 2001. The applicant also submits the following:

1. A letter of employment from [REDACTED], Freeport, New York, stating that the applicant has been a valuable employee since January 4, 2001.
2. An affidavit from [REDACTED] stating that he is a friend of the applicant, and that he has known the applicant since April 2000.
3. An affidavit from [REDACTED] stating that he is a friend of the applicant, and that he has known the applicant since May 2000.

The employment letter (No. 1 above) has little evidentiary weight or probative value as it did not provide basic information that is expressly required by 8 C.F.R. § 244.9(a)(2)(i). Specifically, the letter was not dated, it was not in affidavit form and attested to by the employer under penalty of perjury, it did not provide the address or addresses where the applicant resided during the period of his employment, the exact period(s) of employment, the periods(s) of layoff, if any, and the applicant's duties with the company. Moreover, the letter was not supported by any other corroborative evidence, such as pay statements.

The affidavits from [REDACTED] and [REDACTED] (Nos. 2 and 3 above) attest to the applicant's continuous residence and continuous physical presence based on their "personal knowledge," but fail to provide any specifics regarding the nature, circumstances, or origin of the affiants' acquaintanceship with the applicant. Moreover, the wording of these "fill-in-the-blank" statements is identical, and the handwriting on each of these statements also is identical. As such, these documents appear to have been prepared for the affiants rather than by the affiants. Additionally, the affidavits are not supported by any corroborative evidence.

The applicant has furnished sufficient evidence to establish residence and physical presence in the United States from 1999 to March 2002. However, no evidence was furnished to establish continuous residence and continuous physical presence from March 2002 to the date of filing the TPS application on June 27, 2005.

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 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 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.