

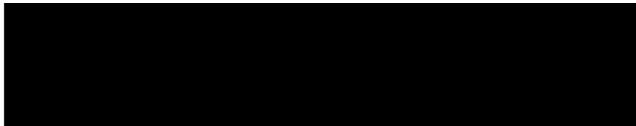


U.S. Citizenship  
and Immigration  
Services

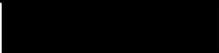
**PUBLIC COPY**

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

*MI*



FILE:



Office: CALIFORNIA SERVICE CENTER

Date: JUN 27 2007

[WAC 05 126 73478]

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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

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 claims to be 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 was eligible for late registration. The director also found that the applicant had failed to establish his qualifying residence and physical presence in the United States during the requisite periods.

On appeal, the applicant asserts his claim of eligibility for TPS.

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. A subsequent extension of the TPS designation has been granted with validity 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 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 initial registration period for Salvadorans was from March 9, 2001, through September 9, 2002. The record reveals that the applicant filed his application with Citizenship and Immigration Services (CIS), on February 3, 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.

On July 3, 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 establishing his qualifying residence and physical presence in the United States. The applicant, in response, provided documentation relating to his residence and physical presence in the United States.

The director determined that the applicant had failed to establish that he was eligible for late registration and denied the application on September 13, 2006.

On appeal, the applicant states that he relied upon representatives to submit his TPS application and evidence of his presence in the United States in a timely manner, to no avail. The applicant also reasserts his claim of eligibility for TPS.

The applicant submitted evidence in an attempt to establish his qualifying residence and 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 has not 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 conclusion that the applicant had failed to establish his eligibility for late registration will be affirmed.

The second issue in this proceeding is whether the applicant has established his continuous residence in the United States since February 13, 2001, and his continuous physical presence in the United States since March 9, 2001.

The applicant initially provided the following documentation:

1. Rent receipts bearing the applicant's name as tenant and dated December 5, 2001, March 5, 2002, and April 21, 2006;
2. A photocopy of the applicant's Florida Identification Card issued on May 27, 2005; and,
3. A photocopy of the applicant's Florida Driver's License issued on April 20, 2006.

The director determined that the applicant had failed to submit sufficient evidence to establish his eligibility for TPS and denied the application on September 13, 2006.

On appeal, the applicant states that he relied upon representatives to submit his TPS application and evidence of his presence in the United States in a timely manner, to no avail. The applicant reasserts his claim of eligibility for TPS and submits the following documentation:

4. An affidavit from [REDACTED] in which he stated that the applicant has been employed by his construction company for many years;
5. An affidavit from [REDACTED] in which he stated that the applicant has been employed by [REDACTED] construction company since December of 2000, and that the applicant rents an apartment in his name, after being blackballed by the landlord;
6. A copy of a rent statement from L&L Investment Properties Inc. with receipt dates of January through June of 2006, and bearing the name [REDACTED] as tenant;
7. Copies of receipts from Direct TV bearing the applicant's name as customer and dated March and June of 2006
8. A copy of an eviction summons from the Count Court of Manatee County, Florida, bearing the applicant's name as defendant and dated December 20, 2001;

9. A copy of a Final Judgment for Possession bearing the applicant's name as defendant and dated January 3, 2002;
10. A copy of a receipt from the Division of Driver Licenses in Florida bearing the applicant's name and dated May 27, 2005;
11. Copies of handwritten receipts dated December 19, 2001, and October 14 and bearing the applicant's name as customer;
12. Copies of receipts from Intermex Wire Transfer bearing the applicant's name and dated April and July of 2006; and,
13. A copy of a handwritten incident report from Manatee County Sheriff's Office dated December 12, 2001, and bearing the applicant's name as the person having reported the incident.

The applicant has not submitted sufficient credible evidence to establish his qualifying continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States since March 9, 2001. There has been no corroborative evidence submitted to substantiate the statements made by the affiants in numbers 4 and 5 above. The applicant claims to have been present in the United States since November 1, 2000. It is reasonable to expect that the applicant would have some type of contemporaneous evidence to support the assertions noted above; however, no such evidence has been provided. Affidavits are not, by themselves, sufficient to establish the applicant's continuous residence and continuous physical presence in the United States.

All other evidence submitted by the applicant is dated subsequent to February 13, 2001 and March 9, 2001; and therefore, is insufficient to establish the applicant's presence in the United States during the requisite time periods. The applicant has failed to establish that he has met the continuous residence and continuous physical presence criteria described in 8 C.F.R. § 244.2(b) and (c). Consequently, the director's decision to deny the application for TPS on these grounds will also be affirmed.

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 this burden. The application will be denied for the above reasons, with each considered as an independent and alternative basis for denial.

**ORDER:** The appeal is dismissed.