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U.S. Citizenship  
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FILE: [REDACTED]  
[EAC 02 081 50572]

Office: VERMONT SERVICE CENTER

Date: MAR 01 2007

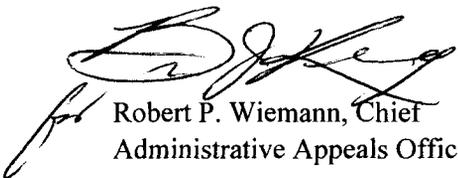
IN RE: Applicant: [REDACTED]

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

ON BEHALF OF APPLICANT: 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, 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 determined that the applicant failed to establish he had been continuously physically present in the United States since March 9, 2001. The director, therefore, denied the application.

On appeal, the applicant submits evidence in an attempt to establish his qualifying continuous residence and continuous physical presence in the United States.

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 as 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;
    - (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 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.

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.

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 granted until September 9, 2007, upon the applicant's re-registration during the requisite 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 record shows that the applicant filed his TPS application on January 4, 2002. On April 7, 2003, the Director, Vermont Service Center, denied the application as abandoned because the applicant failed to appear for fingerprinting. On April 23, 2003, the applicant filed a motion to reopen. The director reopened the proceeding. On July 5, 2005, the applicant was provided the opportunity to submit evidence establishing continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States from March 9, 2001, to the filing date of the application. The applicant, in response, provided:

1. A copy of a State of North Carolina Identification card issued on November 28, 2000.
2. A copy of a Gigante Express receipt dated January 6, 2001.
3. A copy of a letter from [REDACTED], Human Resources, Forsyth Country Club, Winston-Salem, North Carolina.

The director determined that the applicant failed to submit sufficient evidence to establish his continuous physical presence in the United States during the qualifying period. Therefore, the director denied the application.

On appeal, the applicant submits evidence in an attempt to establish his qualifying continuous residence and continuous physical presence in the United States. However, this does not mitigate the applicant's failure to file his TPS application within the initial registration period. Specifically, the applicant provides:

4. A copy of a Personnel Envelope-file showing November 3, 2000, January 23, 2001 and June 16, 2001 as employment dates.
5. A copy of a Fingerprint Notification showing the applicant's fingerprints were taken on June 7, 2005.
6. A copy of Payroll Check Registers dated November 3, 2000 and June 17, 2001.
7. A copy of a State of Maryland Learner's instructional Permit issued on October 27, 2005.

The applicant also resubmitted evidence previously provided. Ms. Woods states that the applicant was employed by Forsyth Country Club from November 3, 2000 until June 16, 2001. The applicant also provided payroll records indicating employment dates of November 3, 2000, January 23, 2001 and June 16, 2001. This evidence indicates the applicant was employed prior to the qualifying dates and in June 2001. This evidence does not establish continuous physical presence from January 4, 2002 to the filing date of the TPS application. Similarly, the remaining evidence also fails to establish continuous physical presence during the requisite period.

The applicant has not submitted sufficient evidence to establish that he has met the criteria for continuous physical presence described in 8 C.F.R. § 244.2 (c). Consequently, the director's decision to deny the application for temporary protected status will be affirmed.

Beyond the decision of the director, it is noted that the applicant has provided insufficient evidence to establish his qualifying continuous residence since February 13, 2001. Therefore, the application must be denied for this reason as well.

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.