

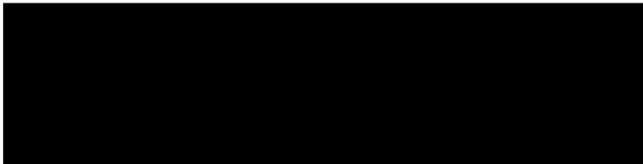
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U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED] OFFICE: California Service Center DATE: **MAR 29 2007**
[WAC 02 150 53093]

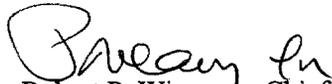
IN RE: Applicant: [REDACTED]

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

ON BEHALF OF APPLICANT:
[REDACTED]

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, California Service Center. 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 establish that he had continuously resided in the United States since February 13, 2001, and been continuously physically present in the United States from March 9, 2001, until the date he filed his TPS application, as required for TPS applicants from El Salvador.

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 designated by the Attorney General 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 since March 9, 2001. The initial registration period for El Salvadorans was from March 9, 2001, through September 9, 2002. 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 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 applicant, who claims to have entered the United States without inspection on December 23, 2000, filed his initial Form I-821, Application for Temporary Protected Status, during the initial registration period on April 1, 2002. On June 16, 2003, the applicant was requested to submit evidence establishing his continuous residence and physical presence in the United States from the dates applicable for El Salvadoran nationals. After the applicant failed to respond in the required 30-day period, the director denied the application on August 14, 2003. The applicant filed a timely appeal, and submitted additional documentation. The AAO remanded the case to the director on June 6, 2005. The director issued a new decision on April 20, 2006, once again denying the application. The director indicated that the documentation submitted with the appeal was not sufficient to establish that the applicant had been continuously resident in the United States since February 13, 2001, and continuously physically present in the country since March 9, 2001.

The applicant again filed a timely appeal, and has submitted some new documentation as well as copies of some materials previously submitted with his first appeal. The evidence of record is insufficient, however, to establish that the applicant meets the continuous residence and physical presence requirements for TPS.

The record includes two brief statements from individuals residing at [REDACTED] California (whom the applicant identifies as a mother and her daughter) who state that the applicant lived in their home. The mother, [REDACTED] states that "I know [the applicant] because he live in my home since December 23, 2000; and he pay me \$150.00 for rent since January 2001 to present time." The daughter, [REDACTED] that "I know [the applicant] because he lived in my house . . . since December 10, 2000 to July 3, 2002." The foregoing statements were prepared in identical wording on two different dates – August 30, 2003 and May 18, 2006. The statements contain a major discrepancy since the daughter indicates that applicant moved out of their house on July 3, 2002, while the mother states that the applicant continued to live in the house and pay rent up to the "present time" (2003 in the case of the first statement and 2006 in the case of the second). It is incumbent upon an applicant to resolve any inconsistencies in the record by independent objective evidence. *See Matter of Ho*, 19 I&N Dec. 582, 591-92, (BIA 1988). Moreover, doubt cast on any aspect of the applicant's evidence reflects on the reliability of the petitioner's remaining evidence. *See id.* Other documentation in the record appears to support the daughter's version, since a Form I-765 (Application for Employment Authorization) filed by the applicant in November 2002 identifies his address as [REDACTED] in Manassas, Virginia, the same address used in all of the applicant's subsequent filings.

In any event, letters or affidavits from acquaintances are not, by themselves, persuasive evidence of an alien's continuous residence and physical presence in the United States. The regulation at 8 C.F.R. § 244.9(a)(2) enumerates the types of documentation needed to establish continuous residence (and physical presence). In that regard, the record includes five photocopied receipts for \$150 rental payments from the applicant to "Haydee" in January, February, March, August, and November 2001. The receipts are generic forms, however, which do not identify the house address or landlord on the form and contain no authenticating stamps or markings to demonstrate that they actually date from 2001. Accordingly, they have little evidentiary weight. The record also includes a photocopied Spanish-language receipt from "Inter-Express" in Los Angeles, California, which appears to identify the applicant, residing at [REDACTED] as the sender of a money order to a recipient in El Salvador on January 16, 2001. Once again, however, the receipt bears no official stamp or marking or signature on behalf of Inter-Express to demonstrate its authenticity. Accordingly, the document has little evidentiary weight.

The record includes a statement from [REDACTED] the owner of a business called [REDACTED] in Santa Ana, California, who states that the applicant "worked for me as [a] car-washer since February 2001 to October 2001." This document does not meet the evidentiary standard of 8 C.F.R. § 244.9(a)(2)(i) because it is not in affidavit form and does not provide the applicant's address(es) at the time of employment, as required by 8 C.F.R. § 244.9(a)(2)(i)(A). The record includes one other statement from [REDACTED] originally submitted in 2003 and resubmitted in 2006, who states that "I know [the applicant] because he worked nearby my work place since January 2001 to the present time." [REDACTED] provides no information about the type[s] of work the applicant had in 2001 and afterwards, does not identify the applicant's employer[s] or their address[es], and offers no details about where the applicant lived and the nature of his interaction with the applicant over the years. Thus, [REDACTED] statement has little evidentiary weight.

Based on the foregoing analysis, the AAO concludes that the evidence of record fails to establish that the applicant has been continuously physically present in the United States since March 9, 2001, and continuously resident in the United States since March 9, 2001, as required for TPS applicants from El Salvador under 8 C.F.R. § 244.2(b) and (c). The director's denial of the application on those grounds will therefore 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 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.