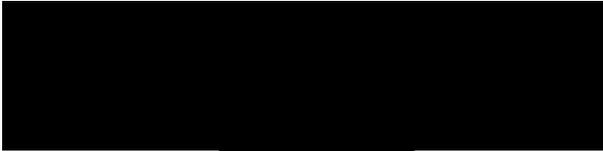


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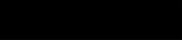
**U.S. Citizenship
and Immigration
Services**

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FILE:



Office: VERMONT SERVICE CENTER

Date: **MAY 17 2007**

[EAC 01 191 52323]

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 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 (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 his qualifying continuous residence and continuous physical presence in the United States during the requisite time periods.

On appeal, counsel for the applicant submits a brief statement and additional documentation.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an applicant is eligible for TPS 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 § 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. 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 granted until September 9, 2007, upon the applicant's re-registration during the requisite time period.

The applicant filed his initial Form I-821, Application for Temporary Protected Status, with the VSC on April 30, 2001. The director denied the application on August 6, 2003. An appeal from the director's denial was filed with the AAO on August 15, 2003. The AAO withdrew the director's decision and remanded the case to the VSC on December 15, 2004. On remand, the director again denied the application on August 11, 2005, after determining that the applicant had failed to submit sufficient evidence to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite time periods.

In support of his application, the applicant provided evidence of his nationality and identity, and documentation indicating his presence in the United States from March 18, 1999, to December 8, 1999.

On appeal, counsel for the applicant submits additional documentation, including the applicant's 2001 Internal Revenue Service (IRS) Form W-2, Wage and Tax Statement, and Form 1040, U.S. Individual Income Tax Return; photocopies of receipts dated April 2001; a letter from Gem Landscaping Company, stating that the applicant had been employed on a seasonal basis from March 15, 1999, to August 15, 2005; and, photocopies of employee earnings statements for the applicant dated on or after March 22, 2001.

The applicant claims to have lived continuously in the United States from July 18, 1995, to the date of filing his application on April 30, 2001. It is reasonable to expect that he would have a variety of contemporaneous evidence to support this claim. All of the documentation submitted by the applicant is dated on or before December 8, 1999, and on or after March 22, 2001. No evidence has been submitted to establish his qualifying continuous residence and continuous physical presence in the United States for the period December 9, 1999, to March 21, 2001.

Based on a review of the record, it is concluded that the applicant has not submitted sufficient evidence to establish that he satisfies the **continuous** residence and **continuous** physical presence requirements described in 8 C.F.R. §§ 244.2(b) and (c). Consequently, the director's decision to deny the 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.