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U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED] OFFICE: California Service Center DATE: MAY 29 2007
[WAC 02 064 54275]

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, California Service Center. It is now on appeal before the Administrative Appeals Office (AAO). The appeal will be dismissed.

The applicant is a national 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 resided continuously in the United States since February 13, 2001 and been continuously physically present in the United States since March 9, 2001.

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 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 in the United States 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 through 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). *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 record shows that the applicant filed his initial Form I-821, Application for Temporary Protected Status, on December 10, 2001, during the initial registration period for El Salvadoran nationals. On December 2, 2003, the applicant was requested to submit evidence showing that he had continuously resided in the United States since February 13, 2001, and been continuously physically present in the country since March 9, 2001, as well as documentation establishing his nationality/identity. In response, the applicant submitted a personal statement in which he asserted that he entered the United States on December 20, 2000, and resided in California until August 2002, when he moved to Indianapolis, Indiana. The applicant also provided the following documentation:

1. Photocopies of his birth certificate and a graduation certificate, with a photo identification, issued to the applicant by a school in San Salvador, El Salvador, in 1991.

2. An affidavit from [REDACTED] who attests that the applicant rented a room from her during 2001.
3. A California Department of Motor Vehicles (DMV) Interim Driver License/Identification Card in the applicant's name, dated June 24, 2002, and a California DMV Operator Driver License with an expiration date of September 6, 2007.
4. A photocopied Social Security Administration card in the applicant's name, indicating that the card was "validity for work only with INS [now CIS] authorization."
5. A photocopy of a receipt from the applicant, dated August 5, 2002, with a stamp from the Environmental Safety Institute in Indianapolis, Indiana.
6. A photocopy of an international money transmission, dated December 19, 2002, which was sent by the applicant to a recipient in San Salvador.
7. Photocopies of various employment-related identification cards made out to the applicant, including a State of Wisconsin Asbestos Worker License.
8. A photocopied Certificate of Course Completion in driver education, dated September 12, 2003.
9. A photocopied bank statement issued to the applicant in Indianapolis, Indiana, covering the period August 29 – September 6, 2002.
10. A photocopied receipt from 2 Way Wireless, dated March 13, 2001, with no name or address on it.

On April 22, 2004, the director denied the application, determining that the applicant had failed to submit sufficient evidence to establish his continuous residence in the United States since February 13, 2001, and his continuous physical presence in the United States since March 9, 2001.

On appeal the applicant submits the following additional documentation:

1. A photocopy of a letter addressed to him by the Social Security Administration, stamped January 28, 2002.
2. A photocopy of a letter to the applicant from the California Service Center, dated January 10, 2002, advising that his Application for Employment Authorization (Form I-765) had been approved.
3. Photocopies of two generic receipts for rental payments by the applicant – dated February 20, 2001, and March 20, 2001 – which do not identify the rental property and contain no stamps or other official markings to confirm their time frame and authenticity.
4. A photocopy of a bank receipt for a \$75.00 payment, with the applicant's name and the date February 15, 2001, written thereon, but with no home address indicated or notation of what the payment was for, and without any stamp or other official markings to confirm the receipt's authenticity.
5. A photocopy of an application for a consumer credit report bearing the applicant's signature and the date "18-05-001," but lacking an address for the applicant and any receipt stamp or other indicia of authenticity.
6. A photocopy of an Indiana Identification Card issued to the applicant on October 16, 2002.
7. A photocopy of an Employment Authorization Card issued by CIS to the applicant with a validity period of June 9, 2004, to March 9, 2005.

The AAO determines that the evidence of record does not establish the applicant's continuous physical presence in the United States from March 9, 2001, and continuous residence in the United States since February 13, 2001, as required for TPS nationals from El Salvador under 8 C.F.R. § 244.2(b) and (c). The evidence submitted by the applicant does not meet the documentary standards set forth in 8 C.F.R. § 244.9(a)(2) to demonstrate his continuous residence and physical presence in the United States for the requisite time period from February/March 2001 onward. The documentation for the year 2001, as discussed in the foregoing evaluation of the evidence, is particularly weak. Accordingly, the director's denial of the application on the foregoing grounds 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 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.