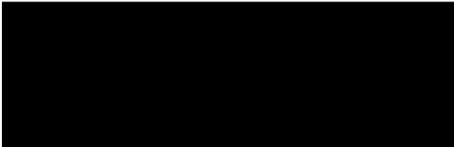




U.S. Citizenship  
and Immigration  
Services

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identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy



*MI*

FILE:



Office: California Service Center

Date: SEP 04 2007

[WAC 05 146 73634]

IN RE:

Applicant:

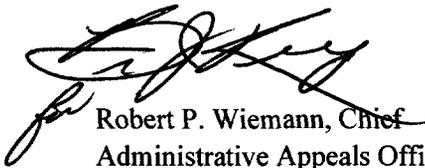


APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254.

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.

  
for 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 (AAO) on appeal. 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 record reveals that the applicant filed a late initial TPS application on February 23, 2005, under CIS receipt number WAC 05 146 73634. The director denied the application on September 11, 2006, because the applicant failed to establish his continuous residence in the United States from February 13, 2001, and his continuous physical presence from March 9, 2001, to the date of filing his TPS application.

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.

Continuously physically present 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.

Continuously resided 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.

Brief, casual, and innocent absence means a departure from the United States that satisfies the following criteria:

- (1) Each such absence was of short duration and reasonably calculated to accomplish the purpose(s) for the absence;
- (2) The absence was not the result of an order of deportation, an order of voluntary departure, or an administrative grant of voluntary departure without the institution of deportation proceedings; and
- (3) The purposes for the absence from the United States or actions while outside of the United States were not contrary to law.

Persons applying for TPS offered to El Salvadorans 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 Salvadorans was from March 9, 2001, through September 9, 2002. The record reveals that the applicant filed his initial application with Citizenship and Immigration Services (CIS) on February 23, 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.

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).

With his TPS application, the applicant submitted photocopies of:-

1. An El Salvador birth certificate (in Spanish), with an English translation;
2. The biographic page of his El Salvador passport, issued in El Salvador on November 7, 2003;
3. A notice of TPS approval for his parent, [REDACTED], dated February 6, 2003;
4. A completed Form G-325A for [REDACTED]

On July 24, 2006, the applicant was provided the opportunity to submit evidence establishing his eligibility for TPS. In his response to the notice of intent to deny, the applicant provided additional documentation pertaining to TPS registration for his parent, [REDACTED] a reference letter from an employer, stating that the applicant has worked with the company from March 2004; and, numerous money transfer receipts.

On appeal, the applicant reasserts eligibility TPS, and states that he is the minor child of a TPS registrant. With his appeal, the applicant submits various documents, including Tax returns, additional receipts, and invoices.

It is noted that, at the time of filing his TPS application, the applicant was the minor child of a TPS registrant, and therefore, he is eligible for late registration for TPS. However, while the regulations may allow children of aliens who are TPS eligible to file their applications after the initial registration period had closed, these regulations do not relax the requirements of eligibility for TPS.

As noted by the director, the applicant has not submitted sufficient evidence to establish his continuous residence and continuous physical presence in the United States during the requisite period. It is noted that the applicant stated in his initial Form I-821, Application for Temporary Protected Status, and on his initial Form I-765, that he entered the United States in December 2000. However, the applicant submitted the biographic page of his El Salvador passport that was issued in El Salvador on November 7, 2003. Also, a review of file [REDACTED] for the applicant's parent, [REDACTED], reveals that on her TPS applications filed in August 2001, and in October 2002, the applicant's parent listed the applicant as residing in El Salvador. It is the applicant's responsibility to address discrepancies in his statements. Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988). The applicant has failed to submit any objective evidence to explain or justify the discrepancies in the entry dates in the record, and his supporting documentation. Therefore, the reliability of the remaining evidence offered by the applicant is suspect and it must be concluded that the applicant has failed to establish his continuous residence and continuous physical presence in the United States during the requisite period. Therefore, the director's decision to deny the application for Temporary Protected Status is 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.