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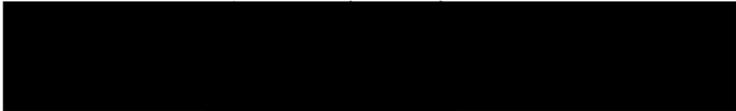
U.S. Department of Homeland Security
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Washington, DC 20529



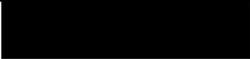
U.S. Citizenship
and Immigration
Services

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FILE:



Office: VERMONT SERVICE CENTER

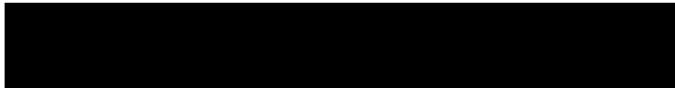
Date:

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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 Vermont Service Center. Any further inquiry must be made to that office.

A handwritten signature in black ink, appearing to read "R. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Vermont Service Center (VSC), 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 director denied the application because the applicant failed to establish his qualifying continuous physical presence in the United States during the requisite time period.

On appeal, 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 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, 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.

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. The initial registration period for Salvadorans was from March 9, 2001, through September 9, 2002. Subsequent extensions of the TPS designation have been granted, with the latest granted until March 9, 2009, upon the applicant's re-registration during the requisite time period.

The burden of proof is upon the applicant to establish that he meets the above requirements. Applicants must 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 burden of proof the applicant must provide supporting documentary evidence of eligibility apart from his own statements. 8 C.F.R. § 244.9(b).

The record reflects that the application filed his initial Form I-821, Application for Temporary Protected Status, on September 10, 2006. In support of the application, the applicant submitted evidence of his nationality and identity (including a photocopy of his Salvadoran birth certificate, with English translation, and a Georgia Driver's License showing an "exam date" of February 16, 2005, and expiration date of October 15, 2008). He also submitted a letter stating that he had an application for asylum pending during the initial registration period and believes he is, therefore, eligible for late registration.¹

On January 9, 2007, the director requested the applicant to submit evidence establishing his qualifying continuous residence and continuous physical presence in the United States during the requisite time periods. The applicant was informed that such evidence may include, but was not limited to, employment or school records, rent/mortgage payment receipts, bank or insurance documents, medical or utility bills, or other similar materials. The record reflects that the applicant failed to respond to the request.

The director determined that the applicant had failed to submit sufficient evidence to establish his qualifying continuous physical presence in the United States since February 13, 2001, and denied the application on April 20, 2007.

¹ A pending Form I-589, Application for Asylum and for Withholding of Removal, filed by the applicant on August 7, 2000, is contained in the record of proceedings.

On appeal, the applicant states that he did not receive the director's request for evidence because he had moved from California, was working between Texas and Georgia, and had failed to submit a timely change of address notice. In support of the appeal, the applicant submits photocopies of: an appearance notice from the Superior Court of California, County of Los Angeles, dated June 1, 2001; Internal Revenue Service (IRS) tax forms for 2001 and 2002; various identification cards; correspondence from CIS; and, a document indicating that he applied for a driver license on January 14, 2002, and was issued an interim driver license in California on January 30, 2002.

The applicant asserts that he has been continuously physically present in the United States since July 1999. Based on the documentation contained in the record, the applicant has established his physical presence in the United States at the time of filing his asylum application in August 2000. He has also submitted documentation indicating his physical presence in the United States during 2002 (January and August); 2003 (April); 2005 (February and July), and 2006 (September). The 2001 IRS forms show \$2102 in earnings for that year, but there is no corroborating evidence to show which dates the applicant actually worked during that year. Furthermore, although the applicant submitted a photocopy of a NIX Check Cashing Card, dated December 29, 2000, the date is hand-written and, again, no corroborating evidence to show activity in any particular checking account has been provided. Also, a photocopy of a court summons submitted by the applicant, dated June 1, 2001, is hand-written and contains no authenticating stamps or other official markings.

It is concluded that the applicant has not submitted sufficient credible evidence to establish his qualifying continuous physical presence since March 9, 2001, to the date of filing his application on September 10, 2006. Therefore, he has failed to establish that he meets the criteria described in 8 C.F.R. § 244.2(b). Consequently, the director's decision to deny the application for this reason will be affirmed.

Beyond the decision of the director, the AAO determined that the applicant has failed to submit sufficient evidence to establish that he has been continuously resident in the United States since February 13, 2001, as required for El Salvadoran nationals under 8 C.F.R. § 244.2(c). Therefore, the application must also be denied for this reason.

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.