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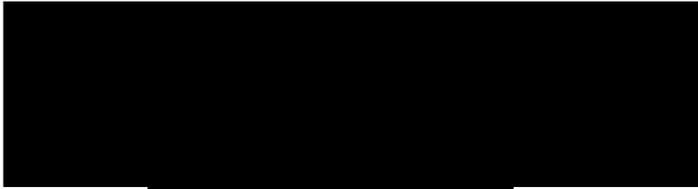
U.S. Department of Homeland Security  
20 Massachusetts Ave., N.W., Rm. 3000  
Washington, DC 20529



U.S. Citizenship  
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FILE [REDACTED] Office: VERMONT SERVICE CENTER  
[EAC 02 112 50848]  
[REDACTED] consolidated]

Date: FEB 20 2008

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, Vermont Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The applicant claims to be 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 he had: 1) continuously resided in the United States since February 13, 2001; and, 2) been continuously physically present in the United States since March 9, 2001.

On appeal, the applicant asserts that he did not receive the notice requesting he submit additional evidence to establish his continuous residence and physical presence in the United States.

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.

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. The designation of TPS for El Salvadorans has been extended several times, with the latest extension valid 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 or she meets the above requirements. Applicants shall 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 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).

At the time the application filed his TPS application,<sup>1</sup> the applicant submitted an affidavit from [REDACTED] of East Boston, Massachusetts, who indicated he has known the applicant since November 2000, and attested to the applicant's East Boston residence at [REDACTED] since February 13, 2001. The applicant also submitted an affidavit dated January 20, 2002, from [REDACTED] of Everett, Massachusetts, who indicated she has known the applicant for approximately a year and attested to the applicant's East Boston residence at [REDACTED] since February 13, 2001.

On June 19, 2004, the applicant was requested to submit evidence establishing his continuous residence since February 13, 2001, and continuous physical presence since March 9, 2001, in the United States as well as his date of entry into the United States. The applicant, however, failed to respond to the notice. The director determined that the applicant had failed to submit evidence to establish his eligibility for TPS and denied the application on October 20, 2004.

On appeal, the applicant asserts that he did not receive the notice dated June 19, 2004. The applicant asserts, in pertinent part:

I Entered United States on November 12, 2000. On March 2001, I went to visit a friend in Los Angeles, Ca., on April 13 2001 coming back from Los Angeles, at Providence RI airport I was detained by an Immigration Officer, he did interrogated me, at the moment I got very nervous

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<sup>1</sup> At the time the initial TPS application was filed, the applicant was given alien registration number [REDACTED]. Once it was apparent that the applicant had a prior A-file (A-[REDACTED]), all the documentation from the TPS application was consolidated into the prior A-file.

and I told him that I entered United States on April 6, 2001. also I did not understand the question he asked me, I do not speak or understand much English.

As evidence of to establish his residence in the United States, the applicant submits a letter from [REDACTED] of East Boston Harborside Community Center, Inc. in East Boston, Massachusetts, who indicated that the applicant attended English as a Second Language classes from January 2001 through the middle of June. [REDACTED] indicates, “[u]nfortunately, our records do not indicate that [the applicant] was a student with us, but I remember him quite clearly and will swear to it if asked to do so.”

The letter from [REDACTED] has little probative value as it is not accompanied by corroborating evidence, such as school transcripts or a Certificate of Completion.

The applicant has not submitted sufficient evidence to establish his qualifying continuous residence or continuous physical presence in the United States during the requisite periods. He has, thereby, failed to establish that he has met the criteria described in 8 C.F.R. §§ 244.2(b) and (c). Consequently, the director's decision to deny the application for TPS will be affirmed.

It is noted that the record contains a copy of the applicant's Mexican voter registration card issued in 2000. It appears the applicant may have resided in Mexico for a significant length of time prior to entering the United States.

As provided in sections 244(c)(2)(B)(ii) and 208(b)(2)(A)(vi) of the Act, an alien shall not be eligible for TPS if the Secretary finds that the alien was firmly resettled in another country prior to arriving in the United States.

However, as the voter registration card has not been authenticated, and the record does not contain documentation indicating that while in Mexico, the applicant received, an offer of permanent residence status, citizenship, or some other type of permanent resettlement, the issue of whether the applicant had firmly resettled in another country will not be pursued at this time.

Finally, the record contains a Form I-213, Record of Deportable/Inadmissible Alien, which indicates that on April 12, 2001, the applicant was apprehended at the T.F. Green Airport in Warwick, Rhode Island. At the time of his apprehension, the applicant indicated that he was smuggled from El Salvador to San Diego, California. On April 13, 2001, a Form I-862, Notice to Appear was issued. On January 28, 2005, a removal hearing was held and the applicant was ordered removed *in absentia* by an immigration judge. On February 6, 2007, a Form I-205, Warrant of Removal/Deportation was issued.

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 this burden.

**ORDER:** The appeal is dismissed.