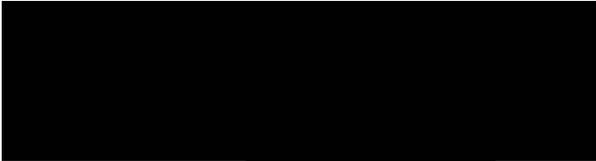


**identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy**



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

PUBLIC COPY



FILE: [REDACTED]
[EAC 07 028 51637]

OFFICE: Vennont Service Center

DATE:

JAN 22 2008

INRE: 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 Vennont Service Center. 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 (VSC), 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 applying for 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 after determining that the applicant had failed to establish his **qualifying** continuous residence and continuous physical presence in the United States during the requisite time periods.

On appeal, the applicant submits a letter 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 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 IOI(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.

The phrase continuously physically present, as defined in 8 c.P.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.P.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 initial registration period for El Salvadorans was from March 9, 2001, through September 9, 2002. 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 extension valid until March 9, 2009, upon the applicant's re-registration during the requisite time period.

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.P.R. § 244.2(f)(2) above.

The burden of proof is upon the applicant to establish that he meets the above requirements. Applicants shall submit all documentation as required in the instructions or requested by CIS. 8 C.P.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.P.R. § 244.9(b).

The applicant filed his first Ponn 1-821, Application for Temporary Protected Status, on August 20, 2004, after the initial registration period had ended (EAC 04 24250322 relates). On the Ponn 1-821, the applicant indicated that he had entered the United States without inspection on October 3, 2002 - which was after the required beginning dates for continuous residence (February 13, 2001) and continuous physical presence (March 9, 2001) in the United States. While the applicant submitted evidence of his eligibility for late registration under 8 c.P.R. § 244.2(f)(2)(iv), as the child of an alien currently eligible to be a TPS registrant, the director denied the application on October 25, 2004, because the application failed to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite time periods.

The applicant filed the current TPS application on November 8, 2006. The applicant indicated on this Form I-821 that he had entered the United States on October 3, 2000 - which was two years earlier than the date provided on his initial TPS application. 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. *See Matter of Ho*, 19 I&N Dec. 582 (BIA 1988). The applicant has failed to explain the evidentiary inconsistency discussed above.

On March 2, 2007, and again on April 16, 2007, the director requested the applicant to submit evidence to establish his eligibility for late registration. The applicant was also requested 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 director's requests.

The director determined that the documentation submitted was insufficient to establish that the applicant had continuously resided in the United States since February 13, 2001, and had been continuously physically present in the United States since March 9, 2001. Therefore, the director denied the application on June 5, 2007. The applicant filed his current appeal from that decision on July 5, 2007.

On appeal, the applicant now claims that "apart from statements made in my application, I have resided in the United States continuously since February 13, 2001 ... and I have been continuously physically present in the United States since March 9, 2001" In support of the appeal, the applicant submits photocopies of school records indicating his presence in the United States from April 2003 through June 2005. A previously submitted school record shows the applicant was in the United States as early as February 3, 2003. There is no further evidence in the record, however, which documents the applicant's presence in the United States before 2003. Moreover, the record includes a photocopy of the biographical page of the applicant's passport that was issued in El Salvador on January 21, 2002.

Thus, the evidence submitted by the applicant does not establish his qualifying continuous residence in the United States since February 13, 2001, and continuous physical presence since March 9, 2001, as required for TPS applicants from El Salvador under 8 C.F.R. §§ 244.2(b) and (c). Therefore, the director's decision to deny the application for these reasons 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.