

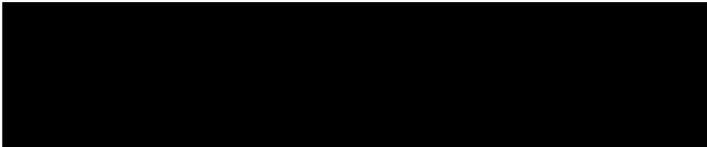
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U.S. Citizenship  
and Immigration  
Services

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**PUBLIC COPY**



FILE:

[EAC 06 336 84533]

Office: Vermont Service Center

Date: JAN 29 2008

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.

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, 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 was eligible for late registration. The director also found that the applicant had failed to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite periods, and had failed to establish his national identity.

On appeal, the applicant asks that his application be approved.

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.

Section 8 C.F.R. § 244.9 requires applicant's to submit all information requested in the instructions of the forms and as may be requested by CIS. It also provides that acceptable evidence of nationality are:

- (i) Passport;
- (ii) Birth Certificate accompanied by photo identification; and/or
- (iii) Any national identity document from the alien's country of origin bearing a photo and/or fingerprint.

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. 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.

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).

The first issue in this proceeding is whether the applicant is eligible for late registration.

The initial registration period for Salvadorans was from March 9, 2001, through September 9, 2002. The record reveals that the applicant filed his application with Citizenship and Immigration Services (CIS) on September 1, 2006. 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.

On March 26, 2007, the applicant was requested to submit evidence establishing his eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2). The applicant was also requested to submit evidence establishing his qualifying continuous residence and continuous physical presence in the United States. The applicant, in response, provided documentation relating to his residence and physical presence in the United States.

The director determined that the applicant had failed to establish he was eligible for late registration and denied the application on May 22, 2007.

On appeal, the applicant asks that CIS approve his application.

The applicant has not articulated any basis of eligibility for late registration, but has submitted evidence in an attempt to establish his qualifying residence and physical presence in the United States. However, this evidence does not mitigate the applicant's failure to file his Application for Temporary Protected Status within the initial registration period. The applicant has not submitted any evidence to establish that he has met any of the criteria for late registration described in 8 C.F.R. § 244.2(f)(2). Consequently, the director's conclusion that the applicant had failed to establish his eligibility for late registration will be affirmed.

The second issue in this proceeding is whether the applicant has established his continuous residence in the United States since February 13, 2001, or his continuous physical presence in the United States since March 9, 2001.

As stated above, the applicant was requested on March 26, 2007, to submit evidence establishing his qualifying continuous residence and continuous physical presence in the United States. The record does not indicate that the applicant has responded.

The director determined that the applicant had failed to submit sufficient evidence to establish his eligibility for TPS and denied the application on May 22, 2007.

On appeal, the applicant asks that CIS approve his application. In support of his appeal the applicant submits the following information:

1. Copies of four un-translated documents with dates highlighted from January 2001, through March 2003.
2. Copies of handwritten receipts bearing dates in February 2001 through November 2002.
3. Copy of an un-translated log bearing dates in 2001.
4. An affidavit of witness claiming the affiant has known the applicant since November of 2001.
5. Letter from [REDACTED] asserting the applicant was in her Dental office periodically from March 20, 2001.

6. Attendance certificates for Van Nuys Community Adult School in 2002.

The record also includes the following:

7. Pay stubs for the years 2002, 2003, 2004, 2005 and 2006.
8. A number of other untranslated documents
9. A letter from [REDACTED] asserting the applicant worked at Maicot Truckig from January to August, 2001.
10. Copies of tax forms and cashed checks from 2005.
11. Other documents for 2005 and 2006.

The evidence submitted by the applicant is sufficient to demonstrate a continuous residence and physical presence from November 2001, to the date of filing. However, the evidence which covers the required period prior to that date is not sufficient. The hand written receipts above, as well as the letters at numbers 4, 5, and 9 are not sufficiently probative of the applicant's assertions. As an example, it is unclear what address the rent receipts are supposed to cover, and there is no independently verifiable information on the documents and CIS cannot determine if they are contemporaneous with the dates listed thereon. Further, neither the hand-written receipts nor letters are supported by any other corroborating evidence. While 8 C.F.R. § 244.9(a)(2)(vi) specifically states that additional documents such as money order receipts or letters "may" be accepted in support of the applicant's claim, the regulations do not suggest that such evidence alone is sufficient to establish the applicant's qualifying residence or physical presence in the United States. The applicant claims to have lived in the United States since December of 2000. It is reasonable to expect that the applicant would have some other type of contemporaneous evidence to support these documents; however, no such evidence has been provided. The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. 8 C.F.R. § 244.9(b). It is determined that the documentation submitted by the applicant is not sufficient to establish that he satisfies the residence and physical presence requirements described in 8 C.F.R. §§ 244.2(b) and (c).

A large portion of the remaining evidence is un-translated, and CIS cannot determine its relevance or authenticity. Any document containing foreign language submitted to CIS shall be accompanied by a certified, full English language translation of the document. 8 C.F.R. § 103.2(b)(3).

The applicant has not submitted sufficient credible evidence to establish his qualifying continuous residence in the United States since February 13, 2001, or his continuous physical presence in the United States between March 9, 2001, and November, 2001. He has, therefore, 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 on these grounds will also be affirmed.

On appeal the applicant has submitted a copy of his passport. In conjunction with a copy of his translated birth certificate the record contains sufficient evidence of his nationality and this portion of the director's decision will be withdrawn.

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 this burden.

**ORDER:** The appeal is dismissed.