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



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

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FILE:

[REDACTED]
[EAC 04 018 51325]

Office: VERMONT SERVICE CENTER

Date: JAN 31 2008

IN RE:

Applicant: [REDACTED]

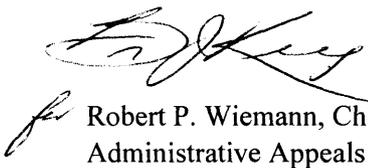
APPLICATION:

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

ON BEHALF OF APPLICANT:

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

The applicant is a native and 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 determined that the applicant failed to establish he: 1) had continuously resided in the United States since February 13, 2001; 2) had been continuously physically present in the United States since March 9, 2001; and 3) was eligible for late registration. The director, therefore, denied the application.

On appeal, the applicant states that he timely complied with the request for additional evidence, but it was not reviewed. The applicant submits evidence in an attempt to establish his qualifying continuous residence and continuous 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 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, 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.

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 that they have continuously resided in the United States since February 13, 2001, and that they have been continuously physically present in the United States since March 9, 2001. 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 granted until March 9, 2009, upon the applicant's re-registration during the requisite period.

The initial registration period for El Salvadorans was from March 9, 2001 through September 9, 2002. The record shows that the applicant filed this application on October 3, 2003.

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 record of proceeding confirms that the applicant filed his application after the initial registration period had closed. To qualify for late registration, the applicant must provide evidence that during the initial registration period from March 9, 2001 through September 9, 2002, he fell within the provisions described in 8 C.F.R. § 244.2(f)(2) (listed above). If the qualifying condition or application has expired or been terminated, the individual must file within a 60-day period immediately following the expiration or termination of the qualifying condition in order to be considered for the late initial registration. 8 C.F.R. § 244.2(g).

On July 21, 2004, the applicant was provided the opportunity 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 continuous residence in the United States since February 13, 2001, and his continuous physical presence in the United States from March 9, 2001, to the filing date of the application. The applicant, in response, provided evidence in an attempt to establish continuous residence and continuous physical presence

during the qualifying period. He did not present evidence of his eligibility for late registration. Therefore, the director denied the application.

On appeal, the applicant states that he complied with the request for evidence. According to the applicant, this evidence was not reviewed. The applicant claims he is eligible for late initial registration and has resided in the United States during the qualifying period. The director did indicate that the applicant had not properly responded to the request for evidence. However, that evidence will be addressed in this decision. In addition, the applicant submits evidence in an attempt to establish his qualifying continuous residence and continuous physical presence in the United States. However, this does not mitigate the applicant's failure to file his TPS application 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 failed to establish his eligibility for late registration will be affirmed.

The second and third issues in this proceeding are whether the applicant has established his continuous residence in the United States since February 13, 2001, and his continuous physical presence in the United States since March 9, 2001.

As stated above, the applicant was requested on July 21, 2004 to submit evidence establishing his qualifying continuous residence and continuous physical presence in the United States. In response, the applicant submitted the following documentation:

1. Copies of hand-written rent receipts from Optimum Property Management LLC dated July 3, 2000, December 3, 2001, June 3, 2002, September 2, 2003, and May 3, 2004.
2. Copies of pay stubs dated September 11, 1998, June 3, 2003, August 1, 2003, August 8, 2003, July 26, 2004, and August 11, 2004.
3. Copies of INS (now CIS) statements dated April 24, 2001, and December 28, 2001 informing the applicant of the receipt of the applicant's Form I-821, copies of Form I-797 Notices of Action dated August 22, 2001, an October 2, 2001 notice from CIS stating that the applicant's record was not found, a copy of a November 1, 2001 CIS document informing the applicant to submit a fingerprint fee of \$25, and a DBI Teleprinter Applicant Information Worksheet indicating the applicant's fingerprints were taken on May 1, 2004.
4. Copies of a U.S. Postal Service Customer receipt dated October 29, 2001.
5. Copies of Cablevision bills with due dates of November 23, 2001, May 23, 2002, December 23, 2002; Verizon bills with due dates of June 17 (year unknown), and August 17, 2004; a copy of a MCI bill dated December 23, 2001; and a copy of a Sprint bill dated November 11, 2002.
6. A copy of a letter from Social Security Administration dated September 12, 2002.
7. Copies of 2002 tax documentation.
8. Copies of money transfer receipts dated September 12, 2003, and January 17, 2004.

The director concluded that the applicant had failed to establish his qualifying residence and physical presence in the United States during the requisite periods and denied the application. On appeal, the applicant submits:

9. Copies of a FedEx receipt dated August 19, 2004 and a letter from FedEx dated September 18, 2004.
10. Copies of the applicant's employment authorization cards and El Salvadoran passport.
11. Copies of letters from [REDACTED] and [REDACTED].
12. Copies of Western Union receipts dated February 9, 2000, February 15, 2000, and July 9, 2002.
13. Copies of an undated document from the Township of Lakewood, New Jersey Department of Police and an undated receipt of the Office of the County Clerk.
14. Copies of a U.S. Postal Service customer receipt dated April 9, 2001.
15. Copies of hand-written rent receipts from Optimum Property Management LLC dated March 2, 2002, April 3, 2000, July 3, 2000, July (no day), 2000, August 5, 2000, October 5, 2000, October 6, 2000, December 8, 2000, November 7, 2001, February 4, 2002, March 2, 2002, April 2 (no year), January 3, 2002, August 5, 2002, October 6, 2002, March 3, 2003, and April 6, 2003.
16. Copies of earnings statements dated May 11, 2001, August 3, 2001, October 12, 2001, November 16, 2001, December 7, 2001, December 14, 2001, December 21, 2001, December 28, 2001, January 4, 2002, February 28, 2002, April 19, 2002, May 10, 2002, June 21, 2002, August 23, 2002, August 30, 2002, September 6, 2002, September 13, 2002, September 20, 2002, October 4, 2002, October 11, 2002, November 22, 2002, December 20, 2002, December 30, 2002, January 31, 2003, March 14, 2003, June 5, 2003, June 13, 2003, July 11, 2003, July 18, 2003, August 1, 2003, August 8, 2003, September 5, 2003, September 12, 2003, September 26, 2003, November 7, 2003, December 12, 2003, December 19, 2003, January 30, 2004, February 6, 2004, April 21, 2004, April 28, 2004, May 5, 2004, June 2, 2004, June 9, 2004, June 23, 2004, June 30, 2004, July 7, 2004, August 4, 2004, August 11, 2004, September 1, 2004, September 8, 2004, September 15, 2004, October 6, 2004, October 13, 2004, October 20, 2004, October 27, 2004, November 3, 2004, November 17, 2004, December 1, 2004, December 8, 2004, December 15, 2004, December 29, 2004, December 22, 2004, January 5, 2005, and January 19, 2005.
17. Copies of bills from Cablevision with a due dates of January 22, 2006, from Verizon dated July 23, 2004, and from Sprint dated March 23, 2002.

[REDACTED] states that the applicant told him that he entered the United States on June 2, 1993. However, [REDACTED] has not demonstrated that his knowledge of the applicant's entry into the United States is independent of his personal

relationship with the applicant. If this knowledge is based primarily on what the applicant told him about his entry into the United States, then his statement is essentially an extension of the applicant's personal testimony rather than independent corroboration of that testimony. Without corroborative evidence, the affidavits from acquaintances do not substantiate clear and convincing evidence of the applicant's residence in the United States.

states that the applicant has worked for her company since on or around September 2003. However, this statement has little evidentiary weight or probative value as it does not provide basic information that is expressly required by 8 C.F.R. § 244.9(a)(2)(i). Specifically, the affiant does not provide the address where the applicant resided during the period of his employment. It is further noted that does not indicate the applicant's duties of employment and can only attest to the applicant's presence in the United States since 2003.

states that she has lived with the applicant since December 1994 and has a two-year old daughter. states that she has known the applicant since 1999. However, these statements are not supported by any corroborative evidence. It is reasonable to expect that the applicant would have some type of contemporaneous evidence to support these assertions; however, no such evidence has been provided. Affidavits are not, by themselves, persuasive evidence of residence or physical presence. The copy of the pay stub dated September 11, 1998 and two of the money order receipts dated February 9, 2000 and February 15, 2000, indicates that the applicant was present in the United States prior to the qualifying dates for continuous residence and continuous physical presence. Similarly, the October 2, 2001 letter from CIS is in response to an inquiry, and it informs the applicant that documents were returned to him on August 22, 2001. The November 1, 2001 CIS document informs the applicant that he has submitted an incorrect fee and that he must file for TPS on Form I-821. However, these documents cannot establish the applicant's continuous residence in the United States since February 13, 2001 and continuous physical presence in the United States from March 9, 2001 to the filing date of the TPS application.

The hand-written receipts are not supported by any corroborative evidence. Furthermore, the credibility of these documents is suspect since many of the receipts bear sequential receipt numbers, which precedes the other receipts. Therefore, these receipts carry little evidentiary weight and will not serve to establish the applicant's eligibility. One of the documents from CIS indicates a date of April 24, 2001, and is the earliest date presented as credible evidence of the applicant's presence in the United States during the requisite period. Therefore, this evidence is of little or no probative value.

The applicant has not submitted sufficient evidence to establish his qualifying residence since February 13, 2001, and his continuous physical presence in the United States since March 9, 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 temporary protected status on these grounds will also 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.