

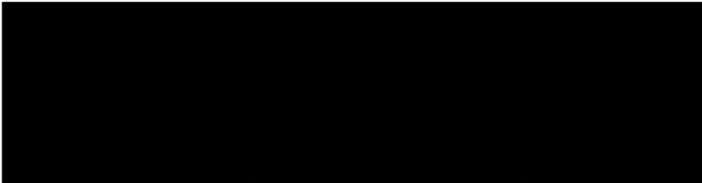
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U.S. Citizenship  
and Immigration  
Services

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FILE: [REDACTED] OFFICE: Vermont Service Center DATE: JAN 31 2008  
[EAC 06 342 70985]

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 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 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 claimed that he is a child of an alien currently eligible to be a TPS registrant.

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).

On December 14, 2006, 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 was also requested to submit a photo identity document. The applicant, in response, provided the following documentation:

- 1) A copy of the applicant's Salvadoran birth certificate and an English translation;
- 2) A copy of the applicant's immunization record. All the immunizations listed on this document are dated April 5, 2006;
- 3) A copy of the applicant's high school ID card from Cleveland High School for summer school 2006;
- 4) A copy of what appears to be an application for health insurance, dated April 25, 2006;
- 5) An undated letter from the applicant's mother requesting that the applicant be granted late registration based on her status as a TPS recipient;
- 6) A photocopy of the applicant's health insurance card;
- 7) A photocopy of the applicant's 2006-2007 high school identification card, and a report card dated December 2006. This document appears to list coursework taken in the fall semester of 2006; and,
- 8) Photocopies of pages of the applicant's passport.

The director determined that the applicant had failed to submit sufficient evidence to establish his eligibility for TPS and denied the application on January 19, 2007.

On appeal, the applicant asked CIS to take his application for TPS into consideration and submitted a copy of his father's EAD card valid from June 17, 2005 to July 5, 2006.

The applicant has submitted evidence to establish that he is eligible for late initial filing because he is the child of a TPS registrant; however, the applicant has not submitted any evidence to establish his qualifying continuous residence since February 13, 2001, or his continuous physical presence in the United States during the period from March 9, 2001, to the date of filing his application.

The applicant asserts on appeal that he is eligible for TPS because his parent had been granted TPS. However, while regulations may allow children of TPS beneficiaries to file their application after the initial registration period had closed; these regulations do not relax the requirements for eligibility for TPS. The child is still required to meet the continuous residence and continuous physical presence requirements as provided in 8 C.F.R. §§ 244.2 (b) and (c).

The evidence submitted establishes that the applicant has not been continuously resident or continuously physically present in the United States during the requisite periods. By his own admission, the applicant arrived in the United States on January 6, 2006, subsequent to the eligibility period. In addition, the applicant's passport was issued in El Salvador on June 28, 2005. Moreover, an entry stamp in his passport indicates that he entered Mexico on April 5, 2006. Therefore, he cannot satisfy the residence and physical presence requirements described in 8 C.F.R. §§ 244.2(b) and (c). Consequently, the director's decision to deny the application for temporary protected status will be affirmed.

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.