

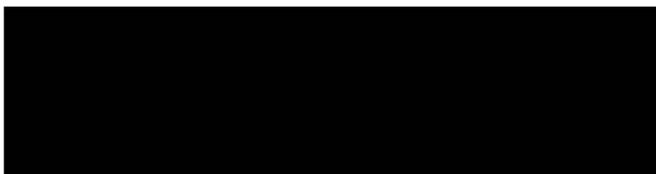
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U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529



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

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FILE: [REDACTED]
[WAC 05 278 70205]

Office: CALIFORNIA SERVICE CENTER

Date: **JUN 24 2008**

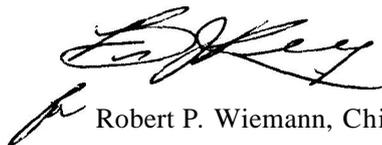
INRE: Applicant: [REDACTED]

APPLICAnON: 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, California Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed. •

The applicant claims to be 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 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. The director, therefore, denied the application.

On appeal, the applicant's mother asserts the applicant is eight years old and requests that he be given an opportunity to be granted TPS. The applicant also 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.P.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.P.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.

The term *continuously physically present*, as used 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 term *continuously resided*, as used 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 September 9, 2007, upon the applicant's re-registration during the requisite 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 record shows that the applicant filed his TPS application on July 5, 2005. On July 21, 2006, 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 nationality and identity, 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 date of filing the application. The applicant, in response, provided:

1. Statements from the applicant's mother and Rev. — and, copies of his mother's previous employment authorization cards.
2. A copy of the applicant's school records for 2003 through 2006.

The director determined that the applicant failed to submit sufficient evidence to establish his continuous residence and continuous physical presence in the United States during the qualifying period. Therefore, the director denied the application.

On appeal, the applicant's mother states that the applicant is eight years old and requests an opportunity for her son. According to the applicant's mother, he entered the United States on January 15, 2001, but she has no proof of his presence in the United States for that year. The applicant's mother states that she applied for TPS during the initial registration period, but did not apply for her children at that time because she did not have the money.

The applicant's mother requests that her son be allowed to register for TPS. The applicant also submits additional evidence in an attempt to establish continuous residence and continuous physical presence in the United States during the qualifying period. Specifically, the applicant submits:

3. A letter from [REDACTED]
4. A copy of a Pupil Withdrawal Report dated September 27, 2001 indicating inoculations dated January 2, 2001, March 4, 2001, and May 20, 2001.
5. A copy of a Physical Examination, Screening Tests and Immunization Record dated March 12, 2001.

The applicant also resubmits evidence previously provided.

In her statement, the applicant's mother asserts that the applicant is from El Salvador and has been in the United States since January 15, 2001. According to the applicant's mother, she is a TPS-eligible alien, but did not apply for TPS for her children during the initial registration period because she did not have enough money. The employment authorization cards provided by the applicant's mother indicate that she is a TPS eligible alien. However, CIS records indicate that on the mother's initial application, filed on May 15, 2001, she indicated that the applicant was in El Salvador. It is only on subsequent applications that the applicant's mother indicates that he was in the United States. Therefore, the applicant cannot establish continuous residence and continuous physical presence in the United States during the qualifying period.

_____ pastor of Iglesia De Dios Hispana in Rogers Arkansas, states that the applicant has been a member of his church since September 15, 2001. _____ Senior Pastor of Iglesia Misionera Hispanoamericana, in Pasadena, California states that the applicant has attended his church from February 2001 to August 2001. However, these statements have little evidentiary weight or probative value as they do not provide basic information that is expressly required by 8 C.F.R. § 244.9(a)(2)(v). Specifically, the pastors do not explain the origin of the information to which they attest, nor do they provide the addressees) where the applicant resided during the period of his involvement with the churches. Furthermore, _____ can only attest to the applicant's presence in the United States since September 15, 2001, which is subsequent to the qualifying dates for continuous residence and continuous physical presence.

The Pupil Withdrawal Report lists inoculations dated January 2, 2001. However, this is prior to the applicant's claimed date of entry into the United States. Therefore, the inoculations must have occurred outside of the United States, and are of no probative value in establishing the applicant's qualifying continuous residence, or, the inoculation was not given on that date. The remaining evidence is dated subsequent to the dates required to establish entry, continuous residence and continuous physical presence during the qualifying period. Therefore, this evidence is of little or no probative value.

The applicant has not submitted sufficient evidence to establish that he has met the criteria for continuous residence and continuous physical presence 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.

The director determined that the applicant was eligible for late initial registration because the applicant's mother is a TPS-eligible alien. However, while regulations may allow children of TPS beneficiaries to file their applications 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 residence and physical presence requirements as

provided in 8 C.F.R. §§ 244.2(b) and (c). The applicant has failed to meet this burden. Consequently, the applicant has provided insufficient evidence to establish his eligibility for late registration. It is also noted that the applicant has failed to provide proof of his nationality and identity. Therefore, the application must be denied for these reasons as well.

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.