

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

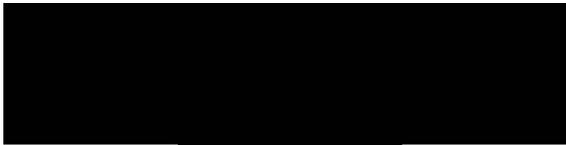
U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

M1



FILE:

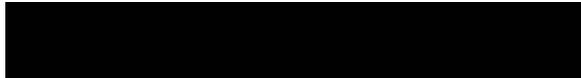
Office: VERMONT SERVICE CENTER

Date: OCT 14 2008

[EAC 08 131 51416, *appeal*]
[EAC 01 179 51514]

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 Vermont Service Center. Any further inquiry must be made to that office.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The applicant's Temporary Protected Status (TPS) was withdrawn by the Director, Vermont Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The director's decision will be withdrawn and the appeal will be sustained.

The applicant is a native and citizen of El Salvador who was granted Temporary Protected Status on January 4, 2002. The director subsequently withdrew the applicant's Temporary Protected Status on March 17, 2008, when it was determined that the applicant had been deported to Mexico on April 21, 2001 and had been ordered deported as an alien present without being admitted and departed on June 25, 2003. The director found the applicant failed to establish he had continuously resided and been continuously physically present in the United States during the required periods.

The director withdrew the applicant's TPS following the regulations at 8 C.F.R § 244.14(a)(1) which provide for the withdrawal of TPS if the alien was not in fact eligible at the time such status was granted, or at any time thereafter becomes ineligible.

On appeal, the applicant states that he entered the United States in November 1993 and that he has never left the United States. He further states that he is not from Mexico, nor has he ever been deported. The applicant attaches copies of both sides of his pay checks from a firm named Grounds Management in Norwalk, Connecticut, dated March 23, 2001, April 2, 2001, April 6, 2001, April 13, 2001, April 20, 2001, April 27, 2001, June 20, 2003, June 27, 2003 and July 3, 2003 along with other documentation to support his appeal.

The record contains a Form R-84, Final Disposition Report, dated June 21, 2001, that was sent to the Federal Bureau of Investigation (FBI), indicating that the applicant was deported to Mexico on April 21, 2001. The submission was rejected by the FBI because there was no corresponding arrest record on file for the date of arrest stated on the Form R-84. The record does not reflect any other documentation such as an executed Form I-205, Warrant of Removal/Deportation, establishing that the applicant was deported to or departed to Mexico or any other county on either April 21, 2001 or on June 25, 2003. It is determined that the record does not establish that the applicant was deported to Mexico on April 21, 2001 or that he departed this country on June 25, 2003.

The record of proceedings contains sufficient evidence of continuous residence, continuous physical presence and nationality for TPS eligibility and does not reflect any grounds that would bar the applicant from receiving the benefit.

An alien applying for TPS has the burden of proving that he or she meets the requirements listed above and is otherwise eligible under the provisions of section 244 of the Act. The applicant has met this burden.

ORDER: The director's decision is withdrawn and the appeal is sustained.