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**U.S. Department of Homeland Security**
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Washington, DC 20536

U.S. Citizenship and Immigration Services

[redacted]

FILE: [redacted] Office: Vermont Service Center Date: APR 05 2004

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, Director
Administrative Appeals Office

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identifying data deleted to prevent clearly unwarranted invasion of personal privacy

**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 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 submitted evidence in support of his claim.

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 temporary protected status 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 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, or

(2) registers for TPS during any subsequent extension of such designation, if the applicant meets the above listed requirements and:

(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.

The phrase brief, casual, and innocent absence, as defined in 8 C.F.R. § 244.1, means a departure from the United States that satisfies the following criteria:

> (1) Each such absence was of short duration and reasonably calculated to accomplish the purpose(s) for the absence;
>
> (2) The absence was not the result of an order of deportation, an order of voluntary departure, or an administrative grant of voluntary departure without the institution of deportation proceedings; and
>
> (3) The purposes for the absence from the United States or actions while outside of the United States were not contrary to law.

Persons applying for TPS offered to El Salvadorans must demonstrate entry on or prior to February 13, 2001, continuous residence in the United States since February 13, 2001, and continuous physical presence 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. A subsequent extension of the TPS designation has been granted by the Secretary of the Department of Homeland Security, with validity until March 9, 2005, 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 June 11, 2002, the applicant was requested to submit evidence establishing his residence since February 13, 2001, and physical presence since March 9, 2001, in the United States. The applicant, in response, provided the following documentation:

1. A letter dated July 1, 2002 from Mr. [redacted] President of High Tech Landscapes, Inc., in Martinsville, New Jersey, who stated that the applicant had been employed by the company since April 29, 2002.

2. A letter dated July 2, 2002 from a representative of Cablevision who indicated that the applicant was an employee from January 1, 2000 to March 2001. It is noted that the individual's name is unknown since his or her signature is illegible.

The director determined that the applicant had failed to submit sufficient evidence to establish his eligibility for TPS and denied the application on April 24, 2003. On appeal, the applicant submitted the following documentation:

3. An affidavit from an acquaintance, Ms. who testified that she had known the applicant in the United States since September 2000.
4. An affidavit from an acquaintance, Mr. who testified that he had known the applicant in the United States since October 2000.
5. An affidavit from an acquaintance, Ms. who testified that she had known the applicant in the United States since September 11, 2000.
6. An affidavit from an acquaintance, Mr. who testified that he had known the applicant in the United States since September 15, 2000.
7. An unsigned affidavit from an acquaintance, Mr. who testified that he had known the applicant in the United States since September 1, 2000.
8. A carbonless copy of a hand-written message to the applicant dated January 1, 2000.
9. A copy of the previously submitted letter from Mr. as detailed in No. 1.

The statements in Nos. 2, 3, 4, 5, and 6 above regarding the applicant's claimed presence in the United States 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 from acquaintances are not, by themselves, persuasive evidence of residence or presence.

It is also worth noting that the statement at the bottom of each of the submitted affidavits indicates the affidavit was sworn and subscribed before the notary in the year 1993, while the affidavits purportedly provide information that occurred seven years later in 2000. Further, the affiant to No. 7 did not sign the affidavit, nor did he indicate his address.

The employment affidavit detailed in No. 2 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 individual does not provide the address where the applicant resided during the period of his employment, nor the exact dates of employment.

The applicant has not submitted sufficient credible evidence to establish his qualifying residence in the United States since February 13, 2001, or his 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 will be affirmed.

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.