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U.S. Department of Homeland Security
20 Mass, Rm. A3042, 425 I Street, N.W.
Washington, DC 20536

U.S. Citizenship and Immigration Services

[redacted]

FEB 26 2004

FILE: [redacted] Office: TEXAS SERVICE CENTER Date:

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

Identifying data deleted to prevent clearly unwarranted invasion of personal privacy

PUBLIC COPY

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.

Cindy M. Gomez for
Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Texas 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 submit evidence to establish that he had resided in the United States since February 13, 2001 and that he had been continuously physically present in the United States since March 9, 2001. The director, therefore, denied the application.

On appeal, the applicant claims that he has lived in the United States since 1995, and he asserts that he has submitted all of the requested documentation. The applicant states that he would like to have the opportunity to obtain better employment so that he can remain in the United States to enjoy greater opportunity and to be able to pay his taxes.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an alien who is a national of a foreign state 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 condition described in paragraph (f)(2) of this section.

Continuously physically present 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 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 entry on or prior to February 13, 2001, 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. A subsequent extension of the TPS designation has been granted by the Secretary 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 the director. 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 January 2, 2003, the applicant was provided the opportunity to submit evidence to establish his residence in the United States since February 13, 2001, and physical presence since March 9, 2001, in the United States. The applicant was also requested to submit a photo identity document from his country of origin. The applicant, in response, submitted the photo identification document, a copy of his Form 1040, U.S. Individual Income Tax Return, for the year 2001, and a tax bill for the period April 15, 2002 to June 10, 2002.

On appeal, the applicant states he has previously provided all of the documentation requested of him. In addition, he submits the following evidence:

1) an affidavit from who states she has known the applicant for 10 years, and that she knew him before he arrived in the United States in 1995;

2) a driver's license issued in Florida on July 5, 2002;

3) a post office receipt dated January 28, 2003;

4) a copy of the applicant's Salvadoran identification card;

5) a copy of the biographical page from the applicant's Salvadoran passport indicating issuance in Miami, Florida, on April 3, 2002;

6) six money transfer documents issued during the period from April 20, 2002 to November 5, 2002;

7) three money transfer documents which do not clearly show the dates they were issued; and,

8) a sales ticket dated November 10, 2002.

The record of proceeding also contains photocopies of receipts, purportedly for rent paid by the applicant, dated November 3, 2000, December 5, 2000, January 2, 2001, February 4, 2001, March 7, 2001, and May 10, 2001. However, the applicant has not submitted any evidence for the period from June 2001 to March 2002. In addition, the receipts are hand-written, generic, and sequentially-numbered.

The evidence submitted is insufficient to establish that the applicant has continuously resided in the United States since February 13, 2001, and has been continuously physically present since March 9, 2001.

The applicant has not submitted sufficient evidence 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.