U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. A3042
Washington, DC 20529

U.S. Citizenship and Immigration Services

[redacted]

FILE: [redacted] Office: VERMONT SERVICE CENTER Date: OCT 2 6 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.

for Robert P. Wiemann, Director
Administrative Appeals Office

identifying data deleted to prevent clearly unwarranted invasion of privacy

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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 determined that the applicant failed to establish he had continuously resided in the United States since February 13, 2001. The director, therefore, denied the application.

On appeal, the applicant asserts that he entered the United States on or around January 5, 2001 and is therefore eligible to apply under TPS. The applicant also submits additional evidence in an attempt to establish continuous residence in the United States during the qualifying period.

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 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.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.

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 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 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).

The record shows that the applicant filed his TPS application on September 12, 2001. On March 31, 2003, the applicant was provided the opportunity to submit evidence establishing continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States from March 9, 2001, to the filing of the application. The applicant, in response, provided statements from [redacted] and [redacted] The applicant also submitted copies of receipts.

In his statement Mr. [redacted] states that he met the applicant in January of 2001 and that the applicant worked for him. Mr. [redacted] states that the applicant resided with him since January 2001. However, neither statement is 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 are not, by themselves, persuasive evidence of residence or physical presence. Furthermore, Mr. [redacted] statement 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, Mr. [redacted] does not provide he address where the applicant resided during the period of his employment. It is further noted that Mr. [redacted] does not provide the exact periods of employment or the applicant's duties with the company. The applicant also provided copies of Travelers Express money order receipts which are dated August 30, 2001 and a hand-written receipt for the completion of forms dated September 6, 2001. Therefore, these receipts only indicate that the applicant was present in the United States on August 30, 2001 at the earliest.

The director determined that the applicant failed to submit sufficient evidence to establish his continuous residence during the qualifying period. Therefore, the director denied the application.

On appeal, the applicant states that he is eligible to apply under TPS. According to the applicant, he responded to the request for additional information with evidence he thought would be enough to demonstrate he has been physically present in the United States. The applicant also indicates that he is sending a brief and/or evidence within 30 days. To date, there has been no further correspondence from the applicant or counsel. Therefore, the record shall be considered complete.

The applicant provides statements from and as well as a receipt. Mr the applicant's cousin, states that he saw the applicant on January 7, 2001, after years of not seeing him. Ms Mr fiancée, states that she met the applicant the first week in January 2001. In addition, Ms. also states that she has known the applicant since January 8, 2001. However, none of these individuals make any claim that they have personal knowledge the applicant has continuously resided in the United States since February 13, 2001. Moreover, as with the statements discussed above, their statements are not supported by any corroborative evidence. Ms states that she met the applicant on January 8, 2001, and that he moved her office furniture for her. A receipt for the moving of office furniture is also provided. Even accepting this claim and supporting document as true, they still fail to establish the applicant's continuous residence during the qualifying period.

The applicant has failed to establish that he has met the criteria for continuous residence described in 8 C.F.R. § 244.2 (c). Consequently, the director's decision to deny the application for temporary protected status will be affirmed.

Beyond the decision of the director, it also is noted that the applicant has provided insufficient evidence to establish his qualifying physical presence during the requisite time periods as described in 8 C.F.R. § 244.2 (b). Therefore, the application must be denied on this basis as well.

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.