



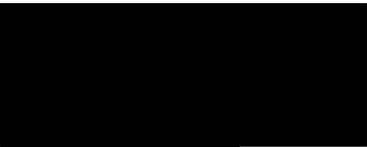
U.S. Citizenship
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Services

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FILE:



Office: VERMONT SERVICE CENTER

Date: **JUL 28 2006**

[EAC 02 157 50540]

IN RE:

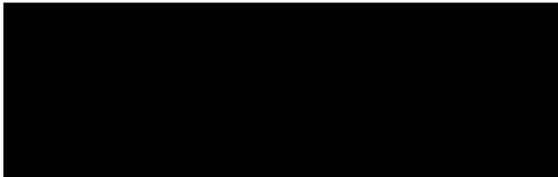
Applicant:



APPLICATION:

Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT:



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, reopened, and denied again by the Director, Vermont Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of El Salvador who is applying for Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254.

The director initially denied the application on September 4, 2003, because the applicant failed to establish his eligibility for TPS. On October 3, 2003, the applicant filed an appeal from the denial decision. On February 23, 2005, the Director (now Chief) of the AAO remanded the case to the service center director for issuance of a new decision specifying the reasons for denial of the application.

The service center director reopened the case and denied the application again on April 20, 2005, because the applicant failed to establish continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States since March 9, 2001.

On appeal, counsel for the applicant submits a statement and additional evidence.

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 designated by the Attorney General is eligible for TPS 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 except as provided under section 244.3;
- (e) Is not ineligible under 8 C.F.R. § 244.4; and
- (f)
 - (1) Registers for Temporary Protected Status 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 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.

Persons applying for TPS offered to 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. 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 valid 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 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 burden of proof the applicant must provide supporting documentary evidence of eligibility apart from his own statements. 8 C.F.R. § 244.9(b).

The applicant indicated on his Form I-821, Application for Temporary Protected Status, that he entered the United States without inspection on December 1, 2000. In support of his application, the applicant has previously submitted the following evidence:

1. a letter from [REDACTED] stating that he has known the applicant "for a long time;"

2. a letter dated September 4, 2003, from [REDACTED] of Brothers II Landscapes, Inc., in East Northport, New York, stating that the applicant worked for his nursery as a landscape laborer during snow storms in the 2001-2002 winter season;
3. a letter dated December 19, 2002, from [REDACTED] Associate Pastor of St. Hugh of Lincoln Roman Catholic Church in Huntington Station, New York, stating that the applicant has been attending his church "for the past two years;"
4. an affidavit dated December 30, 2002, from [REDACTED] stating that the applicant rented a room in her residence located at [REDACTED] from January 2000 to September 2001; and,
5. a photocopy of a New York State Identification Card issued to the applicant on January 7, 2003.

On appeal, counsel for the applicant contends that the director "factually and legally erred" in denying the application. Counsel submits the following additional evidence:

6. a letter dated May 12, 2005, from [REDACTED] Associate Pastor of St. Hugh of Lincoln Roman Catholic Church stating that the applicant has been "living in this parish since September of 2000;"
7. a letter dated May 2, 2005, from [REDACTED] President of Brothers II Landscapes, Inc., stating that the applicant has been employed by his company as a landscaper since September 2000;
8. an affidavit dated May 4, 2005, from [REDACTED] stating that she has known the applicant since September 2000;
9. an affidavit dated May 5, 2005, from [REDACTED] stating that she has known the applicant since September 2000; and,
10. Western Union money transfer receipts dated: August 4, 2002; September 8, 2002; September 23, 2002; October 4, 2002; October 11, 2002; and, October 27, 2002.

Without corroborative evidence, the letter and affidavits from acquaintances (Nos. 1, 4, 8, and 9) are not sufficient to establish the applicant's qualifying continuous residence and continuous physical presence. Moreover, affidavits are only specifically listed as acceptable evidence of employment and membership in organizations such as churches or labor unions as described at 8 C.F.R. § 244.9(a)(2)(i) and (v).

The letters from [REDACTED] (No. 3 above) and [REDACTED] (No. 6 above) 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 neither letter is in affidavit format. [REDACTED] (No. 3 above) does not provide the

applicant's specific dates of attendance in his parish or the applicant's address during the period of his involvement with the church. [REDACTED] does not explain the origin of the information he provides, nor does he provide applicant's specific dates of membership in his church.

The employment letters from [REDACTED] (Nos. 2 and 7 above) 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)(i). Specifically, the letters are not in affidavit format, and [REDACTED] does not provide the address where the applicant resided during the period of his employment.

The applicant has not submitted sufficient evidence to establish his qualifying continuous residence and continuous physical presence in the United States throughout the requisite periods. He has, thereby, 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 TPS will be affirmed.

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 TPS 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.