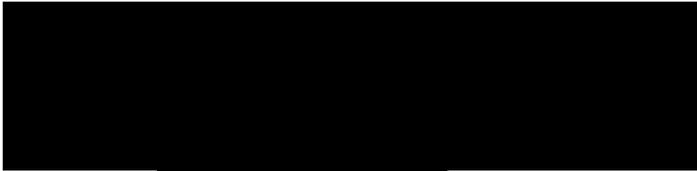




U.S. Citizenship
and Immigration
Services

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prevent clearly unwarranted
invasion of personal privacy**



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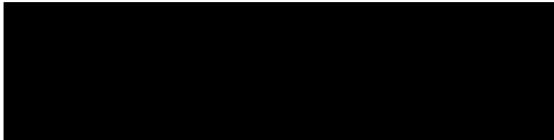
Office: Vermont Service Center

Date: **MAR 02 2007**

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:



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 by the Director, remanded to the Director by the Office of Administrative Appeals, and denied again by the Director, Vermont Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The applicant claims to be a 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, counsel for the applicant submits 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 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 El Salvadorans must demonstrate continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States since March 9, 2001. 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 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 October 9, 2001, the applicant filed this Form I-821, Application for Temporary Protected Status, and submitted the following documentation:

1. Tax Form W-2, Wage and Tax Statement, 2001, from Tode Landscape Contractors, for an [REDACTED] living at [REDACTED] stating the employee earned \$12,553 in wages during 2001.
2. Tax Form W-2, Wage and Tax Statement, 2000, from H & M Rohsler Nursery, for an [REDACTED] living at [REDACTED] stating the employee earned \$1,603 during 2000.
3. Pay stubs from Tode Landscape Contractors, for [REDACTED] for periods in 2002 and 2003, however the top portion of the stubs are covered, and the applicant's address is not discernable.

On May 29, 2003, the applicant was requested to submit evidence establishing his continuous residence since February 13, 2001, and continuous physical presence since March 9, 2001, in the United States. The applicant, in response, provided the following documentation:

4. A letter from the Social Security Administration to [REDACTED] dated April 21, 2001, assigning the applicant a social security number of [REDACTED]
5. Employer letter from Tode Landscape Contractors, dated October 25, 2001, and asserting that the applicant works for the company 40 hours a week at \$13.00 an hour.

The director determined that the applicant had failed to submit sufficient evidence to establish his eligibility for TPS and denied the application on March 24, 2006.

On appeal, the applicant reasserts his claim and submits the following documentation:

6. Copy of a generic picture ID labeled "Certified Identification", bearing the applicant's name and a date of February 11, 1999.
7. Letter from Direct Merchants Bank, dated October 28, 2002, to the applicant at [REDACTED]
8. Documentation from Sprint telecommunications, dated February 26, 2002, and February 22, 2002, to the applicant at [REDACTED]
9. Copy of a medical document dated on or near January 3, 2003, stating the applicant's claim for medical benefits on December 29, 2002, was denied.
10. Receipt for a social security card dated January 3, 2002, bearing the applicant's name.

In addition there is confusion about the applicant's name and social security number. The item listed at number 2 above lists [REDACTED], not [REDACTED] and has an associated Social Security Number of [REDACTED] yet the pay stubs in item 3 above for Tode Landscape Contractors refers to [REDACTED] and lists a social security number of [REDACTED]. The W-2s from Tode Landscape Contractors in item 1 list a social security number of [REDACTED]. The medical document listed in item 9 above lists a social security number of [REDACTED].

The document labeled Certified Identification in item 6 does not indicate who issued and certified the identification, it does not appear to be from any state, or any recognized institution, and it is not clear that this is an authentic document. In any case the document lists a date in 1999, prior to the period in question, and thus is not relevant.

The applicant has not submitted any evidence to establish his qualifying continuous residence or continuous physical presence in the United States during the period from prior to February 13, 2001, to November 29, 2001. Most of the documentation submitted covers periods in 2002 or later, and the only documentation for a period prior to that lacks consistency and credibility. 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.



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.