



U.S. Citizenship
and Immigration
Services

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[REDACTED]

FILE: [REDACTED]
[EAC 02 003 51586]

Office: VERMONT SERVICE CENTER

NOV 26 2007
~~NOV 20 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: 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, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Vermont Service Center (VSC), and is now on appeal before the Administrative Appeals Office (AAO). 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 his qualifying continuous residence and continuous physical presence in the United States during the requisite time periods.

On appeal, the applicant submits a letter and additional documentation.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an applicant is eligible for TPS 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 § 244.3;
- (e) Is not ineligible under § 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.
- (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 conditions described in paragraph (f)(2) of this section.

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. The initial registration period for El Salvadorans was from March 9, 2001, through September 9, 2002. 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 time period.

The burden of proof is upon the applicant to establish that he meets the above requirements. Applicants must 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 filed his initial Form I-821, Application for Temporary Protected Status, on September 6, 2001. The director determined that the applicant had not submitted sufficient evidence to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite time periods and denied the application on June 26, 2003.

A review of the record reveals that the applicant has submitted the following documentation, including that submitted in support of his appeal, in an attempt to establish his eligibility for TPS:

1. Photocopies of his El Salvadoran identification card (*cédula*) and El Salvadoran birth certificate, with English translation;
2. Letters and affidavits from acquaintances attesting to their knowledge of the applicant;
3. Generic rent receipts, dated December 2000 and January 2001;
4. A letter, dated July 9, 2003, from [REDACTED] Brookeville, Maryland, stating that the applicant had been employed since February 2001;
5. A photocopy of a pay statement, issued to [REDACTED] showing a hire date of November 7, 2001; and,
6. A 2002 Internal Revenue Service (IRS) Form W-2, Wage and Tax Statement.

The applicant claims to have lived continuously in the United States since December 8, 2000. It is reasonable to expect that he would have a variety of credible, contemporaneous evidence to support this claim. Letters and affidavits from acquaintances (No. 2, above) are not, by themselves, persuasive evidence of continuous residence and continuous physical presence. The employment letter (No. 4) has little evidentiary weight or probative value as evidence of the applicant's residence and physical presence in the United States from February/March 2001 to November 2001 because it is not supported by objective evidence such as contemporaneous pay stubs, employer records, or 2001 IRS forms. Similarly the rent receipts (No. 3) are not supported by a lease agreement, utility bills, or other correspondence to establish the applicant's rental address. No. 5 is undated, and No. 6 does not evidence the applicant's residence or physical presence in the United States as early as 2001.

Based on a review of the record, it is concluded that the applicant has not submitted sufficient evidence, as described in 8 C.F.R. § 244.9(a)(2), to establish that he was continuously physically present in the United States from March 9, 2001, to the date he filed for TPS on September 6, 2001, and that he has been continuously resident in the United States since February 13, 2001, as required for El Salvadoran nationals under 8 C.F.R. §§ 244.2(b) and (c). Consequently, the director's decision to deny the application for these reasons 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 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.