

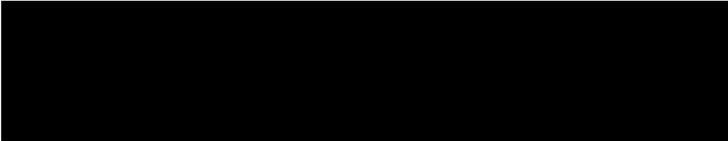


U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
[EAC 07 002 71014]

Office: VERMONT SERVICE CENTER

Date: JAN 22 2008

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 Vermont Service Center. Any further inquiry must be made to that office.

John H. Vaughan
for Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Vermont Service Center (VSC), and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

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

The record reveals that the applicant filed a first Form I-821, Application for Temporary Protected Status, with the California Service Center (CSC) on May 17, 2005, after the initial registration period had ended (WAC 05 229 72400 relates). That application was denied on July 11, 2006, because the applicant failed to establish his eligibility for late registration, and his qualifying continuous residence and continuous physical presence in the United States during the requisite time periods.

The applicant filed a second Form I-821 with the VSC on September 1, 2006 (EAC 07 002 71014 relates). The application was denied on March 13, 2007, because the applicant failed to establish his nationality and identity, his eligibility for late registration, and his qualifying continuous residence and continuous physical presence in the United States during the requisite time periods. The applicant filed the current appeal from that decision on April 11, 2007. On appeal, the applicant submits a brief statement and additional documentation.

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 Temporary Protected Status only if such alien establishes that he:

- (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 since March 9, 2001. The initial registration period for Salvadorans was from March 9, 2001, through September 9, 2002.

To qualify for late registration, the applicant must provide evidence that during the initial registration period he fell within at least one of the provisions described in 8 C.F.R. § 244.2(f)(2) above.

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).

A review of the record reveals that the applicant has submitted the following documentation in support of his applications for TPS and on appeal:

1. A photocopy of an abstract of his birth certificate, with English translation;

2. Photocopies of lease agreements for [REDACTED] and [REDACTED] purportedly dated in March 2001, on which the dates appear to have been altered;
3. A photocopy of a medical document dated December 13, 2003
4. Letters from acquaintances;
5. A letter from [REDACTED], stating that the applicant had worked for her in April 2001; and,
6. Photocopies of unsigned, undated Internal Revenue Service (IRS) tax forms for 2001, 2002, and 2006.

The applicant has failed to submit any evidence to establish that he has met any of the criteria for late registration described in 8 C.F.R. § 244.2(f)(2). Consequently, the decision of the director to deny the application on this ground will be affirmed.

The applicant claims to have lived continuously in the United States since March 3, 2000. It is reasonable to expect that he would have a variety of credible, contemporaneous evidence to support this claim. The 2001 IRS documentation submitted by the applicant can be given little weight, as it is not accompanied by IRS Forms W-2, Wage and Tax Statements, or certification of filing, as required by 8 C.F.R. §244.9(a)(2)(i). Even if it were certified as filed, the Form 1040 shows earnings for 2001, but does not offer corroborating evidence to show the dates the applicant worked during that year. The employment letter (No. 5) 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, it is not in the form of an affidavit and does not provide the address where the applicant resided during the period of his employment, the exact period(s) of employment, the period(s) of layoff (if any), and the applicant's specific duties.

It is concluded that the applicant has not submitted sufficient credible evidence to establish his qualifying continuous residence in the United States since February 13, 2001, and continuous physical presence since March 9, 2001. Therefore, he has failed to establish that he meets the criteria described in 8 C.F.R. §§ 244.2(b) and (c). Consequently, the director's decision to deny the application for these reasons will also be affirmed.

The applicant has also failed to submit sufficient evidence to establish his nationality and identity, as required under the provisions of 8 C.F.R. § 244.9(a)(1). Although the record contains a copy of an abstract of the applicant's birth certificate, with English translation, he has not provided a photo-identification document. Consequently, the director's decision to deny the application on this ground will be affirmed as well.

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.