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U.S. Department of Homeland Security
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Washington, DC 20529



**U.S. Citizenship
and Immigration
Services**

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FILE:



Office: VERMONT SERVICE CENTER

Date: **MAR 25 2008**

[consolidated]

[SRC 01 259 55277]

INRE:

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:

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

The applicant claims to be a native and citizen of EI Salvador who seeks 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.

On appeal, the applicant asserts that he has resided in the United States before February 13, 2001, and submits 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 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
- (t)
 - (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 parole; 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.

The burden of proof is on 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 reflects that on January 18, 2000, the U.S. Customs and Border Protection Border Patrol apprehended the applicant near Eagle Pass, Texas. The Border Patrol issued a Notice to Appear to the applicant based on information the applicant provided. The applicant told the Border Patrol that his name was _____ w _____ m on November 12, 1984, in Mapulaca, Lempira, Honduras, and, that his father's name was _____ and that his mother's name was _____

On August 25, 2001, the applicant filed an application (SRC 01 259 55277) under the TPS program designated for citizens of Salvadorans _____ Texas Service Center (TSC). On his application, the applicant indicated that his name was _____ and listed his place of birth as Barrio San Antonio, Victoria, Cabanas, El Salvador. In s pp _____ lication the a licant submitted a photocopy of a Salvadoran birth certificate, indic _____ was born on August 7, 1983, in Victoria, Cabanas, El Salvador, to _____ er was listed on the birth certificate.

On December 23, 2003, the director notified the applicant that the country of citizenship on his TPS application differed from CIS records. The director requested that the applicant submit any national identity document from his country of origin, bearing a photo and/or fingerprint, such as a copy of the biographic pages of his passport, a national identification document, or cedula. In **resp—he** previously submitted birth certificate; and, a page from the Register of Citizens from _____ El Salvador, listing the same biographic information contained in the birth certificate, with an attached photograph.

The applicant filed several subsequent applications for re-registration.

On February 2, 2007, the director, VSC, requested that the applicant submit evidence of his qualifying continuous residence and continuous physical presence. The applicant did not respond to the director's request.

On May 25, 2007, the director, VSC, denied the application, finding that the applicant had not established his qualifying continuous residence and continuous physical presence.

On appeal, the applicant asserts that he has resided in the United States before February 13, 2001, and submits additional documentation.

The record contains the following photocopied documentation relating to the applicant's residence and physical presence:

- A Form 1-213 Record of Deportable/Inadmissible Alien, indicating that the applicant entered the United States on or about January 18, 2000, and was subsequently apprehended by the U.S. Border Patrol;
- Three illegible pay stubs;
- A Sprint customer information sheet, dated January 15, 2001;
- A remittance receipt, dated May 13, 2001; and,
- An affidavit from [REDACTED], attesting that the applicant rented a room from him from 2000 to the present.

The evidence submitted by the applicant fails to establish his qualifying residence and continuous physical presence. The pay stubs have no probative value and can be given no evidentiary weight as they are not legible. The affidavit from [REDACTED] can be given little evidentiary weight as it is not sworn to, does not provide the affiant's address, or full information and/or complete details relating to the applicant's continuous residence and continuous physical presence, as required by 8 C.F.R. § 244.9(a)(2)(vi). The remittance receipt only lists a Post Office box, not a street address. The applicant claims to have continuously resided and to have been continuously physically present in the United States since January 18, 2000. It is reasonable to expect that he would have a variety of contemporaneous evidence to support the remittance receipt and affidavit; however, no such evidence has been provided. The applicant has not submitted sufficient credible evidence to establish his qualifying continuous residence in the United States since February 13, 2001, or his continuous physical presence in the United States since March 9, 2001. He has, therefore, failed to establish that he has met the criteria described in 8 C.F.R. § 244.2(b) and (c). Accordingly, the director's decision to deny the application on these grounds will be affirmed.

The AAO notes that the applicant has not resolved the inconsistency regarding his country of birth.

An alien applying for TPS has the burden of proving that he or she meets the requirements listed above and is otherwise eligible under the provisions of section 244 of the Act. The applicant has not met this burden.

ORDER: The appeal is dismissed.