



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

PUBLIC COpy

**identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy**

M1

FILE:

Office: VERMONT SERVICE CENTER

Date: MAY 01 2008

[EAC 08 040 51941, *appeal*]

[EAC 07 321 70864]

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

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

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 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 applicant filed an initial Form 1-821, Application for Temporary Protected Status, under receipt number SRC 03 256 55893 after the initial registration period had closed. The Director, Texas Service Center (TSC), denied that application on January 29, 2004, after determining that the applicant had failed to establish he was eligible for late initial registration or that he had continuously resided in the United States during the required period. It is noted that the TSC Director inadvertently reached the correct conclusions in her determination while applying the rules for Honduran and Nicaraguan nationals and not for El Salvadorans.

The applicant filed the current Form 1-821 on August 16, 2007. The VSC Director denied the application because the applicant failed to establish he was eligible for late initial registration. The director also found that the applicant had not established that he had continuously resided in the United States since February 13, 2001 or that he had been continuously physically present in this country since March 9, 2001.

On appeal, the applicant states that he came to the United States on October 27, 2000, and requests that his documents be re-checked.

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 temporary protected status 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 section 244.3;
- (e) Is not ineligible under 8 C.F.R. § 244.4; and
- (f) (1) Registers for TPS 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 (t)(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. The record shows that the applicant filed his applications with Citizenship and Immigration Services on September 15, 2003 and on August 16, 2007.

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

The applicant has not submitted any evidence to establish that he has met any of the criteria for late registration described in the regulations at 8 C.F.R. § 244.2(t)(2). Consequently, the director's decision to deny the application for TPS is affirmed.

A list of the evidence submitted by the applicant to show that he satisfies continuous residence and continuous physical presence requirements is shown below:

1. A copy of a Western Union money order showing the applicant sent funds to a person in El Salvador on June 10, 2001.
2. A copy of the applicant's patient instructions dated November 9, 2001 from Doctor's Walk-In Clinic in Tampa, Florida.
3. An affidavit from _____ in Tampa, Florida, sworn on September 4, 2003. Mr. _____ states that the applicant lived in an address in Tampa, Florida, for approximately two years before he moved.

Without corroborative evidence, the affidavits from acquaintances and family do not substantiate clear and convincing evidence of the applicant's residence in the United States (Item # 3 above). It is determined that the applicant has not submitted sufficient evidence to establish his continuous residence in the United States since February 13, 2001, or his continuous physical presence in the United States since March 9, 2001, to June 10, 2001, the date he sent funds from the United States to a person in El Salvador. He has, therefore, 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 is affirmed for these additional reasons.

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.