

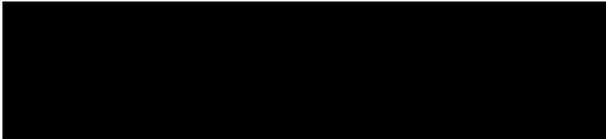
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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

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DATE: Office: VERMONT SERVICE CENTER

MAY 15 2012



IN RE: Applicant:



APPLICATION: Application for Temporary Protected Status under Section 244 of the
Immigration and Nationality Act, 8 U.S.C. § 1254a

ON BEHALF OF APPLICANT: Self-represented

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the Vermont Service Center. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. All motions must be submitted to the Vermont Service Center by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Vermont Service Center, and is now before the Administrative Appeals Office (AAO) 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 was eligible for late registration. The director also denied the application because the applicant had failed to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite periods.

On appeal, the applicant asserts that he entered the United States on March 15, 2000 at the age of 14. The applicant states that he did not attend school as his family member “did not feel any responsibility over me.” The applicant states he was unable to file during the initial registration period “due to me being under age and then when I finally was able, I did not have all the evidence to show my entry and or presence in the United States of America.” The applicant requests that his application be reconsidered.

The applicant indicates at Part 2 on the appeal form that a brief and/or additional evidence would be submitted to the AAO within 30 days.¹ However, more than five months later, no additional correspondence has been presented. Therefore, the record must be considered complete.

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 Secretary 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

¹ Every appeal submitted on the form prescribed by this chapter shall be executed and filed in accordance with the instructions on the form, such instructions being hereby incorporated into the particular section of the regulations in this chapter requiring its submission. 8 C.F.R. § 103.2(a)(1). The Form I-290B instructs the applicant to submit a brief and additional evidence to the AAO within 30 days of filing the appeal.

- (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 term *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 term *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 designation of TPS for El Salvadorans has been extended several times, with the latest extension valid until September 9, 2013, 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 U.S. Citizenship and Immigration Services (USCIS). 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 first issue in this proceeding is whether the applicant is eligible for late registration.

The initial registration period for El 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 record reveals that the applicant filed his application on September 7, 2010.

On August 8, 2011, the applicant was requested to submit evidence establishing his eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2). The applicant, in response, only provided documentation relating to his residence and physical presence in the United States.

The director determined that the applicant had failed to establish he was eligible for late registration and denied the application on October 27, 2011.

On appeal, the applicant neither addresses the finding of his ineligibility as a late registrant nor provides any evidence to establish his eligibility as a late registrant. The provisions for late registration were created in order to ensure that TPS benefits were made available to aliens who did not register during the initial registration period for the various circumstances specifically identified in the regulations. The applicant has not submitted evidence that he has met one of those provisions outlined in 8 C.F.R. § 244.2(f)(2). Consequently, the director's conclusion that the applicant had failed to establish his eligibility for late registration will be affirmed.

The second and third issues to be addressed are whether the applicant has established his continuous residence in the United States since February 13, 2001, and his continuous physical presence in the United States since March 9, 2001.

Along with his TPS application, the applicant submitted:

- A lease agreement entered into between the applicant and Huntington Chase Apartments on March 13, 2010.
- Several money orders dated in 2009 and 2010.
- A letter dated August 30, 2010, from [REDACTED] in Irving, Texas, who indicated that the applicant has been a member of its church for over ten years.

- Letters of recommendation from [REDACTED] Texas, and Glenda Ampara Amaya of Grand Prairie, Texas, who indicated they have known the applicant since 2000. The affiants attested to the applicant's moral character.
- An affidavit from an uncle, [REDACTED], who indicated that the applicant resided in his home, [REDACTED] from October 2000 to March 2002. The affiant indicated that he economically supported the applicant during that time-frame.
- Letters of recommendation from an aunt, [REDACTED] of Irving, Texas, who attested to the applicant's entry into the United States in July 2000. The affiants also attested to the applicant's moral character.
- A money transfer receipt dated March 3, 2010.
- Bank statements from Bank of America dated in 2010.
- A letter dated April 6, 2009, from the Internal Revenue Service.
- Forms 1099-MISC, Miscellaneous Income, for 2005, 2007, and 2009, and Forms W-2, Wage and Tax Statement, for 2004 and 2006.
- Forms 1040, Individual Income Tax Return, for 2008 and 2009.
- A service agreement dated July 14, 2009, from T-Mobile.
- Earnings statements dated April 14, and 21, 2006, from [REDACTED]
- Earnings statements for the periods ending June 4, 18 and 25, 2004 and July 2, 2004, from [REDACTED]

On August 8, 2011, the applicant was advised that he had submitted sufficient evidence to establish his residence and physical presence in the United States from 2004 to the date of filing. The applicant was also advised that: a) the letter from [REDACTED] had little evidentiary weight or probative value as it did not provide basic information that is expressly required by 8 C.F.R. § 244.9(a)(2)(v); and b) the affidavits from family and friends were insufficient without corroborative evidence. The applicant was requested to submit evidence establishing his qualifying continuous residence and continuous physical presence in the United States from 2001 to 2003. The applicant, in response, asserted that he resided with his uncle "that helped me as much as he could, but not sufficient to either be able to attend school nor to apply for TPS in 2001." The applicant provided:

- Medical documents dated March 7, 2002 and May 31, 2003.
- Two lease agreements entered into between [REDACTED] on April 1, 2002 and April 1, 2003, for property at [REDACTED] Irving, Texas. The lease agreements listed the applicant as an occupant.
- A letter dated August 30, 2011, from [REDACTED] who indicated that the applicant had been employed part-time from November 18, 2001 to April 10, 2002, and that he received his wages in cash.

The director determined that the applicant had presented sufficient evidence to establish his residence for 2002 and 2003. However, in denying the application, it was determined that: 1) the applicant had presented earnings statements and a Form 1040 for 2009 with different social security

numbers and, therefore, these documents were questionable and could not be considered credible; and 2) the letter from [REDACTED] was not sufficient to establish the applicant's residence and physical presence for 2001. The director concluded that the applicant had failed to submit sufficient evidence to establish his continuous residence since February 13, 2001 and his continuous physical presence since March 9, 2001, and denied the application.

On appeal, the applicant submits additional copies of the documents previously submitted in response to the notice of August 8, 2011 and at the time his TPS application was filed. The applicant also submits a Texas identification card issued on November 10, 2006.

The applicant has not submitted sufficient credible evidence to establish his qualifying continuous residence in the United States since February 13, 2001, and his continuous physical presence in the United States since March 9, 2001. The applicant 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 on these grounds will also 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 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.