

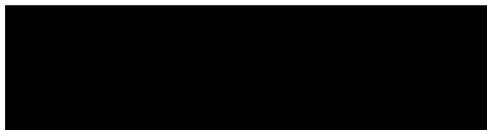
PUBLIC COPY

U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. A3042
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

identifying data deleted to
prevent unauthorized disclosure
invasion of personal privacy



M

APR 15 2005

FILE: 
[EAC 02 271 51367]

Office: VERMONT SERVICE CENTER

Date:

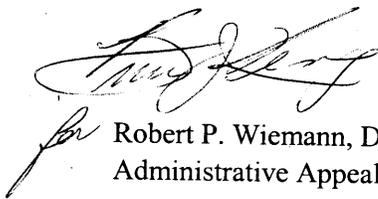
IN RE: Applicant: 

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.



for Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Vermont Service Center, 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 seeking Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. §1254.

The director determined that the applicant failed to establish he had continuously resided in the United States since February 13, 2001. The director, therefore, denied the application.

On appeal, the applicant asserts that he was in the United States before February 2001. The applicant also provides evidence in an attempt to establish continuous residence.

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 as 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.

The term *continuously physically present*, as used 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 used 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 entry on or prior to February 13, 2001, that they have continuously resided in the United States since February 13, 2001, and that they have been continuously physically present in the United States since March 9, 2001. 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 by the Secretary of the Department of Homeland Security, with the latest granted until September 9, 2006, 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 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 shows that the applicant filed his TPS application on August 23, 2002. On April 17, 2003, the applicant was provided the opportunity to submit evidence establishing continuous residence in the United States since February 13, 2001. The applicant, in response, provided date-stamped envelopes from Gigante Express dated October 15, 2001, October 31, 2001, November 12, 2001, and November 27, 2001. The applicant also submitted a pay stub from Sultana Packing & Labor, LLC, Vigalia, California, dated July 7, 2001 and a bank statement from Bank of America for a statement period from February 4, 2003 to March 12, 2003.

The director determined that the applicant failed to submit sufficient evidence to establish his continuous residence. Therefore, the director denied the application.

On appeal, the applicant states that he has been in the United States since before February 2001, but he does not have anything with his name for that time because he was illegal and did not work. The applicant also submits:

1. A letter in Spanish, with no English translation, dated October 2002.
2. A copy of the applicant's passport, issued in Washington, D.C. on March 14, 2002.
3. Copies of pay stubs from Peters and Sons, Inc. dated June 30, 2001, and from LMB Carpentry dated December 14, 2001, December 28, 2001, January 11, 2002, January 25, 2002, February 8, 2002, February 22, 2002, March 8, 2002, March 22, 2002, April 5, 2002, April 19, 2002, and May 4, 2002.

All of this evidence is dated subsequent to the dates required to establish continuous residence during the qualifying period. Therefore, it is of little or no probative value.

The applicant has not submitted any evidence to establish that he has met the criteria for continuous residence described in 8 C.F.R. § 244.2(c). Consequently, the director's decision to deny the application for temporary protected status will be affirmed.

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.