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U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
[WAC 01 264 59579]

Office: NEBRASKA SERVICE CENTER

Date: **AUG 12 2005**

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 office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Nebraska 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 denied the application because the applicant failed to establish continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States since March 9, 2001.

On appeal, the applicant submits a statement and additional evidence.

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 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 § 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.

The phrase brief, casual, and innocent absence, as defined in 8 C.F.R. § 244.1, means a departure from the United States that satisfies the following criteria:

- (1) Each such absence was of short duration and reasonably calculated to accomplish the purpose(s) for the absence;
- (2) The absence was not the result of an order of deportation, an order of voluntary departure, or an administrative grant of voluntary departure without the institution of deportation proceedings; and
- (3) The purposes for the absence from the United States or actions while outside of the United States were not contrary to law.

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. 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, 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 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).

The applicant initially submitted a photocopy of a Western Union money transfer receipt dated January 15, 2001, and photocopies of three hand-written generic rent receipts dated December 1, 2000, January 1, 2001, and February 1, 2001.

On February 4, 2004, the applicant was requested to submit photo identification to establish his identity and evidence to establish his entry into the United States prior to February 13, 2001, his 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, in response, provided the following:

1. a photocopy of his Iowa driver's license issued on September 19, 2003;
2. a photocopy of a CIS notice acknowledging receipt of the applicant's TPS application on August 2, 2001, along with a photocopy of an Employment Authorization Card valid from December 30, 2003 to March 9, 2005;
3. photocopies of money transfer receipts dated July 28, 2001 through December 27, 2003;
4. a photocopy of a bank account form from Columbus Junction State Bank in Columbus Junction, Iowa, dated July 28, 2003;
5. a photocopy of the applicant's 2002 Internal Revenue Service (IRS) Form 1040EZ; a photocopy of the applicant's 2002 Form 540EZ, California Resident Income Tax Return; a photocopy of the applicant's 2002 IRS Form W-2, Wage and Tax Statement, from [REDACTED] No. 35, Inc., headquartered in Omaha, Nebraska; a photocopy of the applicant's 2003 IRS Form W-2 from [REDACTED], Inc., in Columbus Junction, Iowa; and, a photocopy of the applicant's 2003 IRS Form W-2 from [REDACTED] 27, Inc. headquartered in San Francisco, California;
6. a photocopy of the applicant's pay statement from L.A. Reptile, Inc., in Los Angeles, California, dated July 15, 2002; and,
7. a photocopy of a "Request for Employment Verification" form from [REDACTED] Inc., indicating that the applicant began employment for that company on June 17, 2003, and last received a pay raise on December 17, 2003.

The director noted that the applicant had not submitted any evidence to establish his qualifying continuous residence and continuous physical presence in the United States from February 13, 2001, to July 28, 2001. The director, therefore, determined that the applicant had failed to submit sufficient evidence to establish his eligibility for TPS and denied the application on June 17, 2004.

On appeal, the applicant states that he has previously failed to submit evidence that "has a bearing on the decision." He submits photocopies of the hand-written generic rent receipts submitted with the TPS application

and photocopies of three additional hand-written generic rent receipts dated April 7, 2001, March 7, 2001, and May 7, 2001.

The applicant has submitted substantial evidence to establish his continuous residence and continuous residence in the United States from July 28, 2001 through December 2003. He has submitted six hand-written generic rent receipts to establish his qualifying continuous residence in the United States during the period from February 13, 2001 to July 28, 2001, and his continuous physical presence in the United States during the period from March 9, 2001 to July 28, 2001.

The money transfer receipt dated January 15, 2001, does not establish the applicant's qualifying residence and physical presence in the United States during the requisite periods because it is dated prior to February 13, 2001. The photocopies of generic rent receipts provided by the applicant are not supported by any sufficient corroborative evidence. While 8 C.F.R. § 244.9(a)(2)(vi) specifically states that additional documents such as generic rent receipts "may" be accepted in support of the applicant's claim, the regulations do not suggest that such evidence alone is necessarily sufficient to establish the applicant's qualifying residence or physical presence in the United States. The applicant claims to have lived in the United States since October 10, 2000. It is reasonable to expect that the applicant would have some other type of contemporaneous evidence to support these receipts; however, no such evidence has been provided. The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. 8 C.F.R. § 244.9(b). It is determined that the documentation submitted by the applicant is not sufficient to establish that he satisfies the residence and physical presence requirements described in 8 C.F.R. §§ 244.2(b) and (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.