



U.S. Citizenship  
and Immigration  
Services

Administrative Appeals Office  
to  
provide the public with  
information regarding the  
Immigration and Naturalization Service

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FILE: [REDACTED]  
[EAC 01 204 51781]

Office: VERMONT SERVICE CENTER

Date: AUG 26 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, 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 denied the application because the applicant failed to establish that he had: continuously resided in the United States since February 13, 2001.

On appeal, the applicant asserts his claim of eligibility for TPS.

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 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 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.

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. An extension of the TPS designation has been granted with validity 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 applicant initially submitted the following documentation with his TPS application:

1. A copy of a letter addressed to the applicant and date stamped May of 2003.

On April 18, 2002, the applicant was requested to submit evidence establishing his continuous residence since February 13, 2001, and continuous physical presence since March 9, 2001, in the United States. The applicant, in response, provided the following documentation:

2. Two pay statements from [REDACTED] company dated November 25, 2001 and December 9, 2001, and bearing the applicant's name and Patchogue, New York address; and,
3. Copies of an automobile accident report and letter from All State Insurance Company dated May 13, 2002 in reference to an automobile accident involving the applicant on July 14, 2001 in New York.

The director determined that the applicant had failed to submit sufficient evidence to establish his eligibility for TPS and denied the application on May 27, 2003.

On appeal, the applicant reasserts his claim of eligibility for TPS and submits the following documentation:

4. A Sprint bill dated December 29, 2002 and bearing the applicant's name as receiver;
5. An untranslated letter dated August 23, 2001 from The Law Office of Kirk Media Lipton Ketover & Colleluori, L.L.P. to the applicant concerning the July 14, 2001 automobile accident involving the applicant;
6. A pay statement from [REDACTED] dated September 25, 2002 and bearing the name of the applicant as employee;
7. A receipt from Santiago's Agency dated March 30, 2001 and bearing the name of the applicant; and,
8. An IRS Form W-2, Wage and Tax Statement for the tax year 2001 from Rubco Management Corp. of Bayport, New York and bearing the name of the applicant as the employee.

The applicant has not submitted sufficient evidence to establish his qualifying continuous residence in the United States since February 13, 2001. The W-2 Form for the tax year 2001 does not specify the dates the applicant worked for that year. The receipt from Santiago's Agency (No. 7 above) provided by the applicant is not supported by any other corroborative evidence. While 8 C.F.R. § 244.9(a)(2)(vi) specifically states that additional documents such as 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 continuous residence in the United States. The applicant claims to have lived in the United States since May 4, 2000. It is reasonable to expect that the applicant would have some other type of contemporaneous evidence to support the receipt; 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).

All other evidence submitted by the applicant is dated subsequent to the requisite time period, from February 13, 2001 to May 29, 2001; and therefore, not relevant to the applicant's eligibility. It is determined that the documentation submitted by the applicant is not sufficient to establish that he satisfies the continuous residence requirements 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 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.