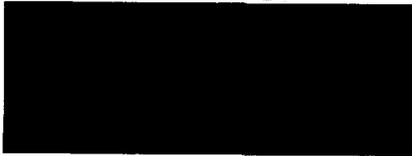




U.S. Citizenship  
and Immigration  
Services

**PUBLIC COPY**

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



M1

FILE:



[EAC 02 124 51288]

Office: VERMONT SERVICE CENTER

Date: **AUG 29 2005**

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 denied the application because the applicant failed to establish he had continuously resided in the United States since February 13, 2001 and had been continuously physically present in the United States since March 9, 2001.

On appeal, the applicant indicates he has resided in the United States since the stated date. The applicant submits a copy of his Form 1040, U.S. Individual Income Tax Return, for 2003 for consideration.

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).

On June 5, 2003, the applicant was requested to submit evidence establishing his residence since February 13, 2001, and physical presence since March 9, 2001, in the United States. The applicant, in response, provided the following copies of his documentation:

1. A pay slip from Newington Services, Inc. for the pay period from April 23, 2001 through April 29, 2001.
2. A pay slip from Office Movers, Inc. in Elkridge, Maryland for check number [REDACTED] dated February 8, 2002.
3. Western Union Money Transfers dated April 6, 2001, June 8, 2001, July 22, 2001, August 5, 2001, August 12, 2001, September 25, 2001, October 7, 2001, October 14, 2001, November 15, 2001, January 26, 2002, October 4, 2002, October 20, 2002, November 1, 2002, January 1, 2003, February 12, 2003 and February 22, 2003 showing he sent cash from this country to a recipient in El Salvador.
4. Pay slips from [REDACTED] for the pay periods from April 16, 2001 through April 22, 2001, April 21, 2001 through April 27, 2001, May 5, 2001 through May 11, 2001 and May 12, 2001 through May 18, 2001.
5. A pay slip from FLC LLC in Washington, D.C. for the pay period from March 29, 2001 through April 4, 2001.

6. Pay slips from Up To Date Laundry, Inc. in Baltimore, Maryland for the pay periods from October 7, 2001 through October 13, 2001, October 14, 2001 through October 20, 2001, October 28, 2001 through November 3, 2001, October 21, 2001 through October 27, 2001, November 4, 2001 through November 10, 2001, November 11, 2001 through November 21, 2001, November 11, 2001 through November 17, 2001 and November 18, 2001 through November 24, 2001.
7. A pay slip from an unknown employer for the period ending June 22, 2003.
8. A Form 1099-Misc IRS Miscellaneous Income, from [REDACTED] in Chantilly, Virginia for 2002.
9. Pay slips from Cattail Creek Country Club, Inc. in Glenwood, Maryland for the pay periods ending May 17, 2002, June 7, 2002, June 21, 2002, July 5, 2002 and July 19, 2002.
10. Bancomercio de El Salvador, Inc. money transfers showing he sent cash to a recipient in El Salvador on December 22, 2002, March 8, 2003, April 6, 2003, May 17, 2003, June 2, 2003 and June 15, 2003.
11. Dolex Dollar Express money transfer showing he sent cash to a recipient in El Salvador on March 12, 2002.
12. Viamericas money transfer showing he sent cash to a recipient in El Salvador on May 4, 2003.

The director determined that the applicant had failed to submit sufficient evidence to establish his eligibility for TPS and denied the application on April 16, 2004

On appeal, the applicant reasserts his claim and submits the following documentation:

13. His Form 1040, U.S. Individual Income Tax Return, for 2003.

The applicant has not submitted any evidence to establish his continuous residence or continuous physical presence in the United States during the period from on or before February 13, 2001, to March 29, 2001. He has, thereby, 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 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.