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[Redacted]

FILE: [Redacted] Office: NEBRASKA SERVICE CENTER Date: JUL 29 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 he was eligible for late registration. The director also found that the applicant had 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. A subsequent 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 record reveals that the applicant filed his application with Citizenship and Immigration Services (CIS) on August 7, 2003.

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 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 first issue in this proceeding is whether the applicant has established continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States since March 9, 2001.

The applicant initially submitted the following:

1. a letter dated February 6, 2001, from [REDACTED] Consul General in Chicago, Illinois, stating that the applicant had applied for a passport at the consulate on January 29, 2001;
2. a photocopy of the applicant's Indiana driver's license issued on February 12, 2001;
3. photocopies of receipts for auto insurance payments from [REDACTED] Agency, Inc., in Beech Grove, Indiana, dated: November 3, 2000; December 4, 2000; and March 15, 2001;
4. a photocopy of a receipt from the Indiana Bureau of Motor Vehicles dated February 12, 2001;
5. photocopies of generic rent receipts dated December 1, 2000; January 1, 2001; January 27, 2001; February 9, 2001; March 10, 2001; April 16, 2001; and May 18, 2001, and a photocopy of a cash receipt from a jewelry store in Indianapolis, Indiana, dated February 9, 2001;
6. photocopies of pay stubs from [REDACTED] Inc., headquartered in Columbus, Ohio, dated: November 10, 2000; November 24, 2000; December 8, 2000; December 15, 2000; December 22, 2000; January 5, 2001; and January 19, 2001, along with pay statements from Majestic Marble Imports dated December 10, 2000; December 29, 2000; January 8, 2001; January 22, 2001; February 4, 2001; February 19, 2001; February 26, 2001; March 5, 2001; March 19, 2001; and,
7. a photocopy from the Indiana Department of Motor Vehicles dated January 6, 2000.

On November 12, 2003, the applicant was requested to submit evidence establishing his eligibility for late initial registration, photo identification, and evidence to establish his qualifying continuous residence and continuous physical presence in the United States. In response, the applicant submitted photocopies of billing summaries from Indiana Power & Light in Indianapolis, Indiana, with due dates of January 5, 2001; February 7, 2001; March 8, 2001; April 9, 2001; May 4, 2001, along with bills from Citizens Gas & Coke Utility in Indianapolis, Indiana, with due dates of December 18, 2000; January 20, 2001; February 19, 2001; March 19, 2001; April 19, 2001; and, April 26, 2001.

The director determined that the applicant had failed to submit sufficient evidence to establish his eligibility for TPS and denied the application on February 3, 2004.

On appeal, the applicant states that he doesn't have utility bills since July 2002, because his employer provides him with room and board. He submits the following additional evidence:

8. a letter dated February 26, 2004, from [REDACTED] and [REDACTED] owners and operators of The Granite Guy of Springfield, Illinois, stating that the applicant has been residing at [REDACTED] Springfield, Illinois," since July 2002, and that the applicant receives hourly wages, rent, telephone, and utility expenses as part of his terms of employment;
9. photocopies of billing summaries from Illinois Power and Light dated June 5, 2001; July 5, 2001; August 6, 2001; September 5, 2001; October 5, 2001; November 5, 2001; December 6, 2001; December 26, 2001; and January 24, 2002, long with a letter from Illinois Power and Light dated November 23, 2003;
10. a photocopy of a 401(k) monthly savings account from Transamerica for the reporting period from October 1, 2003 to December 31, 2003;
11. photocopies of generic rent receipts dated April 16, 2001, May 18, 2001, June 15, 2001, and July 16, 2001, along with receipts for auto insurance payments from Henthorn Agency, Inc., in Beech Grove, Indiana, dated: June 20, 2001; July 9, 2001; August 7, 2001; and,
12. photocopies of Western Union money transfer receipts dated November 4, 2002; December 1, 2002; December 21, 2002; January 20, 2003; February 2, 2003; February 23, 2003; March 10, 2003; April 6, 2003; April 15, 2003; June 2, 2003; June 13, 2003; July 11, 2003; July 18, 2003; August 1, 2003; August 7, 2003; August 8, 2003; August 17, 2003; September 4, 2003; October 12, 2003; November 9, 2003; December 22, 2003; and February 7, 2004.

In view of the foregoing, it is concluded that the applicant has submitted sufficient evidence to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite periods. He has, therefore, met the criteria described in 8 C.F.R. § 244.2(b) and (c), and these grounds for denial of the application have been overcome.

The second issue in this proceeding is whether the applicant is eligible for late registration.

The record of proceedings confirms that the applicant filed his application after the initial registration period had closed. To qualify for late registration, the applicant must provide evidence that during the initial registration period, he was either in a valid immigration status, had an application pending for relief from removal, was a parolee, or was the spouse or child of an alien currently eligible to be a TPS registrant, and he had filed an application for late registration within 60 days of the expiration or termination of the conditions described in 8 C.F.R. § 244.2(f)(2).

As stated previously, the applicant was requested on November 12, 2003, to submit evidence establishing his eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2). In response, the applicant submitted documentation relating to his residence and physical presence in the United States, but he failed to submit any evidence to establish his eligibility for late registration.

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

On appeal, the applicant submits evidence in an attempt to establish his qualifying residence and physical presence in the United States. However, this evidence does not mitigate the applicant's failure to file his Form I-821, Application for Temporary Protected Status, within the initial registration period. The applicant has not submitted any evidence to establish that he has met any of the criteria for late registration described 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.

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.