

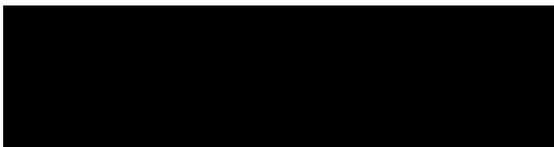
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U.S. Citizenship
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Services

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FILE:



Office: Vermont Service Center

Date: JUN 14 2005

[LRC 05 05 1254]

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.

A handwritten signature in cursive script, appearing to read "Robert P. Wiemann".

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 had failed to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite periods.

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 is eligible for TPS 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.

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. A subsequent extension of the TPS designation has been granted by the Secretary of the Department of Homeland Security, 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 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 November 3, 2003, the applicant was requested to submit evidence establishing his continuous residence in the United States as of February 13, 2001, and continuous physical presence in the United States from March 9, 2001, to the date of filing his application. In addition, the director noted that Page 3 of the applicant's Form I-821, Application for Temporary Protected Status, was missing. As such, the applicant was also requested to complete and submit Page 3 of the application. The applicant did not respond to the director's request; therefore, the director determined that the applicant had failed to establish his eligibility for TPS and denied the application on February 25, 2004.

On appeal, the applicant states that the reason he did not apply for TPS was because he was told by others not to send anything, as he would be deported. The applicant also claims that he did not have money because he did not have a steady job. In addition, he states that he does not have documentation, such as rent or medical receipts because he did not have any legal documents. Further, the applicant states that he received a letter from the Service stating that he had failed to establish his eligibility for TPS late registration and that he apologizes for not sending his application on time. Along with his appeal, the applicant submits the following documentation: an undated letter from Mr. [REDACTED], who stated that he has known the applicant since July 2001; an undated letter from Mr. [REDACTED] who stated he has known the applicant since June 2001; an undated letter from Mr. [REDACTED] who stated that he has known the applicant since May 2001; and an undated letter from Ms. [REDACTED], who stated she has known the applicant since April 2001.

The statements from Mr. [REDACTED] Mr. [REDACTED] Mr. [REDACTED] and Ms. [REDACTED] indicate that they have known the applicant; however, they do not state whether their acquaintance with the applicant was in the United States or elsewhere. In addition, these letters do not cover the time period since the beginning of the requisite time frames for El Salvadoran TPS. The record also contains an affidavit dated August 12, 2002, from Ms. [REDACTED]

who stated that she has known the applicant since April 1997, and that she has seen him on a monthly basis. The statements provided by the individuals mentioned above regarding the applicant's claimed continuous residence and continuous physical presence in the United States are not supported by corroborative evidence. The applicant claims to have lived in the United States since April 4, 1997. It is reasonable to expect that the applicant would have some type of contemporaneous evidence to support his continuous residence and continuous presence in the United States during the requisite time periods. Affidavits from acquaintances are not, by themselves, persuasive evidence of continuous residence or continuous physical presence. The applicant has not submitted sufficient evidence to establish his continuous residence in the United States since February 13, 2001, and his continuous physical presence in the United States since March 9, 2001, to the date of filing his application. The applicant has, therefore, 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.

Although the applicant indicates, on appeal, that he did not submit his TPS application on time, according to the record of proceedings, his initial application was received on August 22, 2002, during the initial registration period for El Salvadoran TPS.

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.