



U.S. Citizenship
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Services

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FILE: [REDACTED]
[EAC 02 294 51423]

Office: VERMONT SERVICE CENTER

Date: JUN 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.

A handwritten signature in black ink, appearing to read "R. 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 failed to establish that he had (1) continuously resided in the United States since February 13, 2001; and (2) been continuously physically present in the United States since March 9, 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 submitted with his initial TPS application the following documentation:

1. An affidavit from [REDACTED] dated July 9, 2002, in which he stated that he had known the applicant for two years, and that to the best of his knowledge he had continuously resided in the United States since their acquaintance;
2. An affidavit from [REDACTED] in which she stated that she has personally known the applicant since 2000, and that to the best of her knowledge he had continuously resided in the United States since their acquaintance;
3. An affidavit from [REDACTED] dated July 7, 2002, in which he stated that he had known the applicant for two years, and that to the best of his knowledge he had continuously resided in the United States since their acquaintance;
4. An affidavit from [REDACTED] dated July 14, 2002, in which he stated that he had known the applicant for two years, and that to the best of his knowledge he had continuously resided in the United States since their acquaintance; and
5. A letter from [REDACTED] of the [REDACTED] dated July 8, 2002, in which he stated that the applicant currently resided at [REDACTED]

[REDACTED] that he has been a member of the congregation since February 2000, and that he attends Mass in the parish.

On July 9, 2003, 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:

6. An affidavit from [REDACTED] in which he stated that he had known the applicant since 2000;
7. An affidavit from [REDACTED] in which he stated that he had known the applicant since 2001; and
8. An affidavit from [REDACTED] in which he stated that he had known the applicant since 2001.

The director determined that the applicant had failed to submit sufficient evidence to establish his eligibility for TPS and denied the application on October 7, 2003.

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

9. A copy of a check from [REDACTED] Corporation, dated March 27, 2003, made out to the applicant in the amount of \$1.30; and,
10. A copy of two rent receipts dated March and April of 2001, and bearing the applicant's name.

The applicant has not submitted sufficient evidence to establish his qualifying continuous residence or continuous physical presence in the United States during the period from February 13, 2001, to September 9, 2002. The affidavits submitted have little evidentiary weight or probative value. Although the affiants stated that they knew the applicant, they provide no detailed information or supporting documentation to substantiate their claim.

The affidavit from [REDACTED] (No. 5 above) has little evidentiary weight or probative value as it does not provide basic information that is expressly required by 8 C.F.R. § 244.9(a)(2)(v). Specifically, the pastor does not explain the origin of the information to which he attests, nor does he provide the address where the applicant resided during the requisite period of his involvement with the church. The pastor only stated that the applicant currently resided at the 202 Saratoga Street address.

The copies of the rent receipts (No. 10 above) provided by the applicant are not supported by any other corroborative evidence. While 8 C.F.R. § 244.9(a)(2)(vi) specifically states that additional documents "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 or continuous physical presence in the United States. The applicant claims to have lived in the United States since February of 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). The CVS

Corporation check is dated beyond the requisite time period and therefore, is not relevant to the applicant's continuous residency or continuous physical presence in the United States from February 13, 2001, to September 9, 2002. It is determined that the documentation submitted by the applicant is not sufficient to establish that he satisfies the continuous residence and continuous 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 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.