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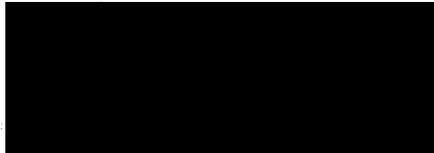
U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. A3042
Washington, DC 20529



**U.S. Citizenship
and Immigration
Services**

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FILE: [REDACTED] Office: VERMONT SERVICE CENTER Date: **MAY 25 2005**
[EAC 03 237 52488]

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 was eligible for late registration. The director also found that the applicant had failed to establish his continuous qualifying residence and continuous physical presence in the United States during the requisite periods.

On appeal, the applicant submits evidence in support of claim of eligibility for late registration and his claim of continuous residence and continuous physical presence in the United States.

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.

- (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.

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.

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).

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

The initial registration period for Salvadorans was from March 9, 2001, through September 9, 2002. The record reveals that the applicant filed his application with the Immigration and Naturalization Service, now Citizenship and Immigration Services (CIS), on August 7, 2003.

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).

On September 2, 2003, the applicant was requested to submit evidence establishing his eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2). The applicant was also requested to submit evidence establishing his qualifying residence and physical presence in the United States. The applicant, in response, provided documentation relating to his residence and physical presence in the United States.

The director determined that the applicant had failed to establish he was eligible for late registration and denied the application on October 28, 2003.

The applicant submitted 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 Application for Temporary Protected Status within the initial registration period. The applicant has not submitted evidence to establish that he has met the criteria for late registration as 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.

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

As stated above, the applicant was requested on September 2, 2003, to submit evidence establishing his qualifying residence and physical presence in the United States. The applicant, in response, provided the following documentation:

1. A copy of an employee insurance benefit notification, dated October 10, 2003;
2. An employment verification letter dated July 21, 2003, from the bookkeeper of Metropolitan Reclamation Services, Inc. in which it is stated that the applicant had been employed by the company from November 17, 1999 to December 14, 2001;
3. A letter written by [REDACTED] dated September 29, 2003, in which he states that he has known the applicant since they were in El Salvador and that the applicant came to the United States in 2000;
4. A letter written by [REDACTED] dated September 30, 2003, in which he states that he has known the applicant since they were in El Salvador and that the applicant came to the United States in 1999;
5. A letter written [REDACTED] dated September 29, 2003, in which he states that he has known the applicant since they were in El Salvador and that the applicant came to the United States in 2000;
6. A letter written by [REDACTED] in which he states that he has known the applicant since 2000;
7. A notarized letter from the applicant's landlord, [REDACTED] dated August 6, 2003, in which he states that the applicant has resided at 931 West Front Street in [REDACTED] since February of 1999; and
8. Rent receipts made out to the applicant for the months of September, November, and December of 2000, and January of 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 28, 2003.

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

9. A letter from the [REDACTED] Store, dated November 7, 2003, in which [REDACTED] states that he has known the applicant since November of 2000 and that he is a customer;
10. A letter written by [REDACTED] dated November 7, 2003, in which he states that he has known the applicant as a friend since September of 2000;
11. A letter written by [REDACTED] dated November 7, 2003, certifying that he has known the applicant as a friend since September of 2000;
12. The applicant's payroll records from the Metro Reclamation company for the quarters ending March 31, 2000, June 30, 2000, September 30, 2000, and December 31, 2000; and
13. A dental appointment notice, dated for October 7, 2000.

The applicant has not submitted sufficient credible evidence to establish his continuous qualifying residence in the United States since February 13, 2001, or his continuous physical presence in the United States since March 9, 2001. The payroll records submitted are only for the four quarters in 2000. In addition, the rent receipts are only for the months of September, November, and December of 2000, and January of 2001, and appear to be altered. The AAO notes that the applicant submitted the TPS application on August 7, 2003. The applicant submitted a photocopy of his passport with his initial application, which shows that it was issued in El Salvador on January 13, 2003, thus disproving any continuous physical presence or continuous residency claim he may be asserting. Further, all other evidence submitted fails to document the applicant's continuous presence or continuous residency in the United States during the initial registration period.

The applicant has 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 on these grounds will also 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.