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U.S. Citizenship  
and Immigration  
Services

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[Redacted]

FILE:

[Redacted]  
[EAC 01 161 55771]

Office: VERMONT SERVICE CENTER

Date:

NOV 08 2105

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:

[Redacted]

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, reopened, and denied again 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 initially denied the application on July 28, 2003, after determining that the applicant 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 November 5, 2003, counsel for the applicant filed a motion to reopen and reconsider. Counsel stated that the applicant has experienced great difficulty in obtaining contemporaneous evidence to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite periods.

The director reopened the matter and denied the application again on August 5, 2004, because the applicant failed to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite periods.

On appeal, counsel for 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.

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. Subsequent extensions of the TPS designation has been granted, with the latest extension granted until September 9, 2006, upon the applicant's re-registration during the requisite time period.

The initial registration period for Salvadorans was from March 9, 2001 to September 9, 2002. The record reveals that the applicant filed his Form I-821, Application for Temporary Protected Status, on March 28, 2001.

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 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 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 applicant stated on his TPS application that he entered the United States without inspection on October 3, 2000. In response to a request for evidence dated September 21, 2001, the applicant submitted the following:

1. a letter dated October 5, 2001, from [REDACTED] Parish Outreach Coordinator of St. Elizabeth Seton Church in Lake Ronkonkoma, New York, stating that she first met the applicant in October 2000, when he came to the church with his sister for food from the F.A.N. Program, and indicating that she has since seen the applicant "on a number of occasions."

The director initially denied the application on July 28, 2003, because he 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.

Counsel for the applicant filed a motion to reopen and reconsider on November 5, 2003. On motion, counsel submitted the following:

2. an affidavit dated August 13, 2003, from [REDACTED] in Port Jefferson Station, New York, stating that the applicant "has been part-time" since February 2001; and,
3. an affidavit dated August 11, 2003, from [REDACTED] stating that the applicant stayed in his home "for two or three months during 2/2001."

On March 17, 2004, the director reopened the matter and provided the applicant with another opportunity to submit additional evidence to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite periods. In response, the applicant submitted the following:

4. a letter dated June 3, 2004, from [REDACTED] stating that the applicant "has been working for me as a laborer since December 2000;" and,
5. an affidavit dated June 9, 2004, from [REDACTED] the applicant's brother, stating that the applicant lived at [REDACTED] from January of 2001 to December 2001.

The director denied the application again on August 5, 2004, after determining 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, counsel for the applicant states that it has been a hardship for the applicant to gather evidence to establish his qualifying continuous residence and continuous physical presence because he has been illegal status. Counsel submits the following:

6. an affidavit dated August 25, 2004, from [REDACTED] stating that the applicant is his brother-in-law and that he has known the applicant in the United States since January 2001;
7. an affidavit dated August 18, 2004, from [REDACTED] stating that the applicant has been working for him as a laborer "since December of 2000;"
8. an invoice from J&TA Communications in Centerreach, New York, dated March 20, 2001; and,
9. a Gigante Express money transfer receipt dated February 10, 2001.

The Gigante Express money transfer receipt (No. 9 above) predates the requisite periods to establish continuous residence and continuous physical presence in the United States. The employment affidavit from [REDACTED] (No. 2 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)(i). Specifically, the affiant does not provide any information regarding the applicant's duties for the establishment or the address where the applicant resided during the period of his employment. Similarly, the employment letter (No. 4 above) and affidavit (No. 7 above) from Mr. [REDACTED] have little evidentiary weight or probative value as they do not provide basic information that is expressly required by 8 C.F.R. § 244.9(a)(2)(i). Specifically, Mr. [REDACTED] does not provide any information regarding the applicant's duties or the address where the applicant resided during the period of his employment.

The affidavits from Mr. [REDACTED] (No. 3 above), Mr. [REDACTED] (No. 5 above), and Mr. [REDACTED] (No. 6 above) are not sufficient to establish the applicant's qualifying continuous residence and continuous physical presence in the United States during the requisite periods. Without corroborative evidence, affidavits are not sufficient to establish an applicant's qualifying continuous residence and continuous physical presence. Moreover, affidavits are only specifically listed as acceptable evidence of employment and membership in organizations such as churches or labor unions as described at 8 C.F.R. § 244.9(a)(2)(i) and (v).

The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. 8 C.F.R. § 244.9(b). It is determined that the documentation submitted by the applicant is not sufficient to establish that he satisfies the residence and 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.

The application will be denied for the above stated reasons, with each considered as an independent and alternative basis for denial. 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.