



U.S. Citizenship
and Immigration
Services

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FILE:

[REDACTED]

Office: VERMONT SERVICE CENTER

Date: SEP 08 2005

[EAC 02 030 53716]

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 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 (AAO) 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 his qualifying continuous residence and continuous physical presence in the United States during the requisite time periods.

On appeal, the applicant submits additional documentation.

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. The initial registration period for Salvadorans was from March 9, 2001, through September 9, 2002. On July 9, 2002, the Attorney General announced an extension of the TPS designation until September 9, 2003. Subsequent extensions of the TPS designation have been granted, with the latest granted until September 9, 2006, upon the applicant's re-registration during the requisite time period.

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 burden of proof is upon the applicant to establish that he meets the above requirements. Applicants must 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 record reflects that the applicant filed his initial Form I-821, Application for Temporary Protected Status, on September 27, 2001. In support of his application, the applicant submitted:

1. A photocopy of an abstract of his El Salvadoran birth certificate, with English translation, issued in El Salvador on October 16, 2000;
2. A photocopy of his El Salvadoran personal identification card (*cédula*), issued in El Salvador on September 29, 2000; and,
3. A letter, dated September 24, 2001, from [REDACTED] the proprietor of [REDACTED] Elizabeth, New Jersey, stating that the applicant had been employed since December 1, 2000.

On January 7, 2004, the director requested the applicant to submit evidence establishing his qualifying continuous residence and continuous physical presence in the United States during the requisite time periods. In response, the applicant submitted various documents that the director determined were not notarized by a Notary Public, and were therefore insufficient to establish the applicant's eligibility for TPS. The director denied the application on April 27, 2004.

On appeal, the applicant submits the following:

4. A notarized photocopy of No. 3, above;
5. A notarized letter, dated May 7, 2004, from "Manny," manager of the International Furniture USA Corporation in Plainfield, New Jersey, stating that the applicant had credit with the company since January 1, 2001;
6. A notarized letter, dated May 8, 2004, from [REDACTED] stating that he had known the applicant since 2001;
7. A notarized letter, dated January 22, 2004, from Alfredo Velasquez, stating that the applicant had been his tenant from October 16, 1999, to August 2003;
8. An undated notarized letter from [REDACTED] Restaurant in Plainfield, New Jersey, stating that the applicant had been a customer since February 5, 2001;
9. A photocopy of an undated letter from [REDACTED] of the [REDACTED] in Plainfield, New Jersey, stating that the applicant had been a customer since February 1, 2001;
10. A photocopy of a money order document, dated November 8, 2001;
11. A photocopy of a Western Union Money Transfer receipt, dated December 15, 2002;
12. A photocopy of an envelope showing the applicant's return address in New Jersey, postmarked February 13, 2002;
13. A photocopy of an envelope addressed to the applicant in New Jersey with an illegible postmark;
14. A customer receipt from AT&T Wireless, dated August 8, 2001;

The applicant claims to have lived continuously in the United States since October 15, 1999. It is reasonable to expect that he would have a variety of credible, contemporaneous evidence to support this claim. Letters from acquaintances (Nos. 5, 6, 8, and 9, above) are not, by themselves, persuasive evidence of continuous residence and continuous physical presence. The employment letter (No. 4) has little evidentiary weight or probative value as it is not supported by objective evidence, such as earnings statements and employee records. Similarly, the rent letter (No. 7) is not supported by rent receipts and a lease agreement. Nos. 10, 11, and 12 are each dated after the dates required to establish qualifying continuous residence and continuous physical presence, and No 13 has no value as evidence because the postmark is illegible.

Based on a review of the record, it is concluded 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 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.