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**U.S. Citizenship
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Services**

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FILE: [REDACTED]
[EAC 02 243 52867]

Office: VERMONT SERVICE CENTER

Date: SEP 08 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.


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 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 a statement and 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.

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 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 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).

In support of his initial TPS application, filed on July 11, 2002, the applicant submitted:

1. A photocopy of the identification page from his El Salvadoran passport; and,
2. A letter, dated May 28, 2002, from [REDACTED] stating that she had known the applicant since his entry into the United States in January 2001.

On October 23, 2003, the director requested the applicant to submit evidence establishing his qualifying continuous residence in the United States since February 13, 2001, and continuous physical presence since March 9, 2001. The applicant was informed that such evidence may include, but was not limited to, employment or

school records, rent/mortgage payment receipts, bank or insurance documents, medical or utility bills, or other similar materials. In response, the applicant submitted:

3. An affidavit, dated November 3, 2003, from [REDACTED] stating that he had known the applicant since September 2000 when he moved from Los Angeles to Boston;
4. Photocopies of earnings statements, dated October 2001 to February 2003, and October 2003;
5. A photocopy of a 2002 Internal Revenue Service (IRS) Form W-2, Wage and Tax Statement; and,
6. A photocopy of a Verizon account statement for the period November 7, 2001 to December 1, 2001.

The director determined that the applicant had not submitted sufficient evidence to establish his eligibility for TPS and denied the application on March 3, 2004.

On appeal, the applicant provides the following additional documentation:

7. An affidavit, dated March 19, 2004, from [REDACTED] stating that he had known the applicant since January 2001; and,
8. A letter from Ruth Melgar, dated March 2, 2004, stating that she has known the applicant since February 2001.

The applicant claims to have lived continuously in the United States since December 30, 2000. It is reasonable to expect that he would have a variety of credible, contemporaneous evidence to support this claim. Letters from acquaintances (Nos. 2, 3, 7, and 8, above) are not, by themselves, persuasive evidence of continuous residence and continuous physical presence. Nos. 4, 5, and 6 are dated well beyond the dates required to establish qualifying continuous residence and continuous physical presence.

Furthermore, there is a discrepancy noted in the documentation submitted concerning the applicant's date of entry into the United States. Although the applicant claims to have entered the United States on December 30, 2000, the information attested to in No. 3 claims that the applicant moved from Los Angeles to Boston in September 2000. This discrepancy has not been explained and calls into question the applicant's ability to document the requirements under the statute and regulations. Doubt cast on any aspect of the evidence as submitted may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. It is incumbent on the applicant to resolve any inconsistencies in the record by independent objective evidence; any attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582. (Comm. 1988).

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.

Beyond the decision of the director, the applicant has not submitted an identity document bearing his photograph and/or fingerprint, as required under the provisions of 8 C.F.R. § 299.9(a)(1)(ii) and (iii). The application must also be denied for this reason.

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.