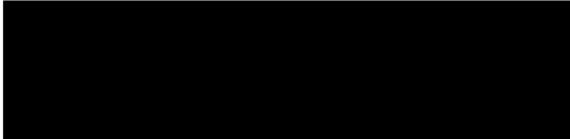


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FILE: [REDACTED]
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Office: VERMONT SERVICE CENTER

Date: OCT 24 2006

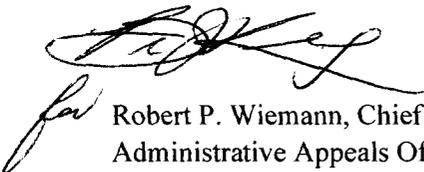
IN RE: Applicant: [REDACTED]

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.


for Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Vermont Service Center. A motion to reopen, filed by the applicant, was granted by the director and she again denied the application. An untimely appeal was treated as a Motion to Reopen and the application was denied again by the Director, Vermont Service Center. The matter 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 applicant initially denied the application as abandoned because the applicant failed to appear for fingerprinting.

On motion, the applicant stated that he did not receive the appointment letter for fingerprinting because he was out of the state at the time

The director subsequently determined that the applicant failed to establish 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. The director, therefore, denied the application.

On appeal, the applicant stated that he believed he is a good candidate for TPS. The applicant also submitted additional evidence and resubmitted evidence previously provided in an attempt to establish continuous residence and continuous physical presence in the United States during the qualifying period.

The director determined that the applicant did not overcome the grounds for the denial and denied the application again.

On the instant appeal, the applicant again states that he believes he is a good candidate for TPS. The applicant also submits additional evidence and resubmits evidence previously provided in an attempt to establish continuous residence and continuous physical presence in the United States during the qualifying period. In addition, the applicant states that he is sending a brief and/or evidence within 30 days. To date, there has been no further correspondence from the applicant or counsel. Therefore, the record must be considered complete.

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 as designated by the Attorney General 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 section 244.3;

- (e) Is not ineligible under 8 C.F.R. § 244.4; and
- (f)
 - (1) Registers for TPS 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 term *continuously physically present*, as used 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 term *continuously resided*, as used 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 that they have continuously resided in the United States since February 13, 2001, and that they have been continuously physically present 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 have been granted, with the latest extension granted until September 9, 2007, upon the applicant's re-registration during the requisite 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 record shows that the applicant filed his TPS application on August 8, 2002. On June 3, 2003, the director denied the application as abandoned because the applicant failed to appear for fingerprinting. The applicant

submitted a motion to reopen. On January 28, 2004, the applicant was provided the opportunity to submit evidence establishing continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States from March 9, 2001, to the filing date of the application. The applicant, in response, provided evidence in an attempt to establish continuous residence and continuous physical presence in the United States during the qualifying period.

The director determined that the applicant failed to submit sufficient evidence to establish his continuous residence and continuous physical presence in the United States during the qualifying period. Therefore, the director denied the application.

On motion, the applicant stated that he did not receive the fingerprint appointment letter because he was out of the state.

On July 1, 2004, in a subsequent motion, the applicant submitted the following documentation:

1. A statement from [REDACTED]
2. Copies of tax documents from 2002 and 2003.
3. Copies of receipts from [REDACTED] dated October 29, 2003, from Radioshack dated February 11, 2004; a receipt for an application for a Social Security card dated October 3, 2002; a hand-written receipt from Asesoria Centro Americana Wheaton, Maryland, dated July 31, 2002; a receipt from AB Discount Driving School, Inc. Wheaton, Maryland dated December 4, 2003; from Mattress Warehouse dated April 2, 2002; a receipt from Bancoamerico dated November 25, 2003; and an undated receipt from AT&T.
4. Copies of a bank statement from Bank of America dated for the period ending May 21, 2004 and an Account Summary Information document dated February 3, 2004; and a Scheduled Transfer Agreement dated February 3, 2004.
5. A copy of a Sprint Order Request dated December 23, 2003, bills from Sprint dated January 24, 2004 and July 24, 2004.
6. Copies of weekly checks from [REDACTED] Painting and Decorating dated from March 19, 2004 to July 16, 2004.
7. A copy of a certificate from the Montgomery County Public Schools Department of Alternative Programs Adult Education, dated May 8, 2003.

The director determined that the applicant had not overcome the basis for denial and denied the application again.

On appeal, the applicant states that he entered the United States on or about December 2000. According to the applicant, he has sent all of the required proof to qualify for TPS submits the following documentation:

8. Copies of a letter from [REDACTED] dated April 15, 2004.

9. Copies of checks from [REDACTED] Painting and Decorating, dated January 16, 2004, January 23, 2004, January 30, 2004, February 6, 2004, February 13, 2004, February 20, 2004, and March 5, 2004.
10. A copy of a bond document from Fairfax County Gen Dist – Criminal, dated February 15, 2004.
11. A copy of a Glenmont CIS/ASC XBB worksheet.

The applicant also resubmits evidence previously provided.

[REDACTED] states that he employed the applicant from December 2000 to the present and that the applicant was paid on a cash basis in 2000, 2001, and 2002 because he did not have legal status at that time. However, this statement 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 the address where the applicant resided during the period of his employment. It is further noted that the affiant did not indicate the applicant's duties of employment. The checks from [REDACTED] and the 2002 tax document provided by the applicant only indicate the applicant was employed in 2002, 2003 and 2004.

The applicant has not submitted sufficient evidence to establish that he has met the criteria for continuous residence and continuous physical presence 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.