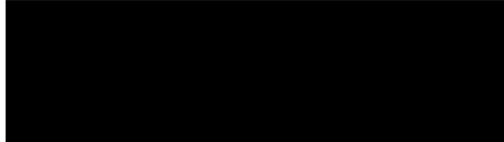




U.S. Citizenship
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FILE: [REDACTED]
[EAC 02 229 51365]

Office: VERMONT SERVICE CENTER

Date: **AUG 02 2007**

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:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the California Service Center. Any further inquiry must be made to that office.

Robert P. Wiemann, Chief
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 stated to be 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 he had continuously resided in the United States since February 13, 2001 and been continuously physically present in the United States since March 9, 2001.

On appeal, the applicant states that he was here in the United States since the year 2000, and that he has not returned to his country in five years.

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.

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. An extension of the TPS designation has been granted with validity until September 9, 2007, upon the applicant's re-registration during the requisite time 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).

Upon initial submission, the applicant submitted:

1. A copy of a bank statement dated November 27, 2000, addressed to the applicant in Harrisonburg, Virginia, giving regular savings account information for a person named [REDACTED] for the period from June 9, 2001 through September 7, 2001.
2. A copy of a Potomac Electric Power bill dated February 15, 2001, addressed to the applicant in Harrisonburg, Virginia, for the period from January 15, 2001 through February 15, 2001.
3. A copy of an AT&T letter dated February 6, 2001, addressed to the applicant in Harrisonburg, Virginia, reminding him that his account was delinquent.
4. A copy of a letter from The JC Penney Card dated January 28, 2001, addressed to the applicant in Harrisonburg, Virginia, reducing his credit line.

The director denied the application on January 20, 2005. On appeal, the application forwarded the following additional documentation.

5. A copy of a class information sheet informing him that his English classes were to begin on September 10, 2001.
6. A copy of a parental notification from Rockingham County Public Schools in Rockingham, Virginia, dated October 4, 2001 informing them that they were looking forward to working with the applicant in their English as a Second Language program.
7. A copy of an invoice from a company named Fox dated February 11, 2001, addressed to the applicant in Harrisonburg, Virginia.
8. A copy of a receipt dated January 31, 2001, to the applicant from EmergiCare in Harrisonburg, Virginia.
9. A copy of a sales receipt dated October 13, 2001, to the applicant from a Doctor in Harrisonburg, Virginia.
10. A copy of a bill dated October 13, 2001, to the applicant from a Doctor in Harrisonburg, Virginia.

The bank statement submitted by the applicant (Item #1 above) is suspect because although it is addressed to him, it documents the savings account of another person. Items # 2 thru 4 and Items #7 and #8 are also suspect because the applicant's name and address appears to be superimposed on documents that belonged to others. 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 visa petition. It is incumbent on the petitioner 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).

Upon review of the entire record, it is determined that the applicant has provided insufficient evidence to establish his continuous residence and continuous physical presence during the required time period. 8 C.F.R. § 244.2 (b) and (c). Consequently, the director's decision to deny the application for TPS will be affirmed.

Beyond the decision of the director, the applicant has provided insufficient evidence to establish that he is a national or citizen of El Salvador. He has provided a copy of his birth certificate. However, a birth certificate alone does not establish nationality. The record does not contain any photo identification such as a passport or national identity document. 8 C.F.R. § 244.2(a) and § 244.9(a)(1). Therefore the application shall be denied for this additional reason.

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.



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ORDER: The appeal is dismissed.