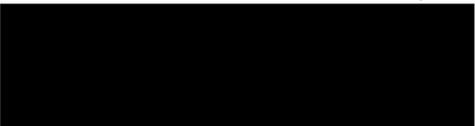




U.S. Citizenship
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Services

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MI



FILE: [REDACTED]
[EAC 06 342 83632]

Office: VERMONT SERVICE CENTER

Date: **AUG 22 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: 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, 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 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 eligibility for TPS late registration. The director also determined that the applicant failed to establish his qualifying continuous residence and continuous physical presence in the United States.

On appeal, the applicant asserts his claim of eligibility for TPS.

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 designated by the Attorney General 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 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.

- (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 have been granted by the Secretary of the Department of Homeland Security, with validity until September 9, 2007, upon the applicant's re-registration during the requisite time period.

The initial registration period for Salvadorans was from March 9, 2001, through September 9, 2002. The record reveals that the applicant filed his initial application with Citizenship and Immigration Services (CIS) on September 7, 2006.

To qualify for late registration, the applicant must provide evidence that during the initial registration period he or she fell within at least one of the provisions described in 8 C.F.R. § 244.2(f)(2) above.

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 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).

Along with his application for TPS, the applicant submitted the following: copies of his El Salvadoran birth certificate with an English translation; copies of a return to work note and a receipt dated February 15, 2001, from AHED Family Medical Center located in Fort Smith, Arkansas; a copy of a receipt dated September 25, 2002, from Hough, Hough & Hughes, P.A.; a copy of an employment letter dated December 5, 2003, from [REDACTED]

Owner and Operator of [REDACTED] stating that the applicant had been employed from March 2001 to January 2003; copies of three hand-written rent payment receipts dated January 2, 2004, May 3, 2004, and November 1, 2004; a copy of his outpatient order form dated April 13, 2005, from Sparks Regional Medical Center; and a copy of the front of an envelope postmarked August 17, 2006.

On December 12, 2006, the director requested the applicant to submit evidence to establish his eligibility for TPS late registration. The director also requested the applicant to submit evidence to establish his continuous residence since February 13, 2001, and his continuous physical presence in the United States since March 9, 2001. In addition, the applicant was requested to submit a copy of his identity document.

In response, the applicant submitted the following: copies of his El Salvadoran personal identification card; a copy of an English translation of his birth certificate; a copy of his patient registration dated February 11, 2001, from AHBC; a copy of a return to work certificate from the [REDACTED]; a copy of a hand-written receipt from [REDACTED]; a copy of a lease agreement dated July 1, 2001; a copy of a letter dated September 4, 2001, from [REDACTED]; copies of his immunization record; a copy of a receipt dated September 25, 2002, from [REDACTED]; a copy of an employment letter dated December 5, 2003, from [REDACTED] and Operator of [REDACTED]; copies of three hand-written rent payment receipts dated January 2, 2004, May 3, 2004, and November 1, 2004.

The director determined that the applicant failed to establish his eligibility for TPS late registration. The director also determined that the evidence submitted was not sufficient to establish the applicant's qualifying continuous residence and continuous physical presence in the United States. Therefore, he denied the application on February 5, 2007.

On appeal, the applicant states that he previously attempted to apply for TPS. The applicant did not provide any additional evidence in support of his claim of eligibility for TPS; therefore, the record will be considered complete.

The first issue in this proceeding is whether the applicant has established his eligibility for TPS late registration.

A review of the record reflects that the applicant has not submitted any evidence to establish that he has met any of the criteria for late registration described in 8 C.F.R. § 244.2(f)(2). Consequently, the director's conclusion that the applicant had failed to establish his eligibility for late registration will be affirmed.

The second issue in this proceeding is whether the applicant has established his continuous residence in the United States since February 13, 2001, and his continuous physical presence in the United States since March 9, 2001.

The employment letter from [REDACTED] and Operator of [REDACTED] is not supported by corroborative evidence such as paycheck stubs or earnings statements. In addition, the generic apartment lease is also not supported by corroborative evidence such as receipts for payment of rent or utility bills for the claimed residence. Moreover, the applicant claims to have resided in the United States since January 5, 2001; thus, it seems reasonable that the applicant would have additional evidence in support of his qualifying continuous

residence and continuous physical presence in the United States. 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 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 on these grounds will also 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 TPS 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.