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U.S. Citizenship  
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FILE:



Office: VERMONT SERVICE CENTER

Date: **JUL 19 2007**

and [redacted] - consolidated herein]

[EAC 02 263 50154]

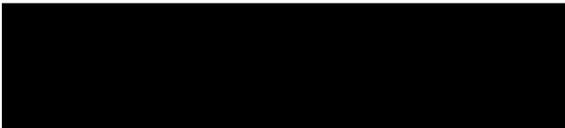
IN RE:

Applicant:



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 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 (VSC), 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 provides a brief 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 who is a national of a foreign state 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.
- (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 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 valid until September 9, 2007, 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 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).

On August 13, 2003, the applicant was requested to submit evidence of 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.

On September 10, 2003, the applicant provided: a photocopy of a letter from Western Union, Bridgeton, Missouri, stating that the applicant had sent a money transfer on June 13, 2000; a copy of a document in a foreign language with no English translation;<sup>1</sup> and, an undated and unsigned "Residency Form" from Alexandria City Public Schools (ACPS), stating that the applicant resided in Alexandria, Virginia.

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<sup>1</sup> Any document containing a foreign language submitted to CIS shall be accompanied by a full English language translation that the translator has certified as complete and accurate, and by the translator's certification that he or she is competent to

The director found that the applicant failed to establish his continuous residence and his continuous physical presence in the United States during the requisite timeframes. The director denied the application on February 27, 2004. The applicant, through counsel, filed his current appeal from that decision on March 24, 2004.

On appeal, the applicant submits the following additional documentation: copies of his Employment Authorization Cards (EADs); a copy of a Commonwealth of Virginia Identification Card issued on January 7, 1993; a copy of a Certified Mail Receipt postmarked September 8, 2003; a copy of a Domestic Return Receipt (PS Form 3811) postmarked September 10, 2003; a copy of a Confirmation Statement of Student Enrollment from ACPS dated March 16, 2004, listing the applicant and [REDACTED] as the parents of two students, [REDACTED] and [REDACTED] a letter dated March 22, 2004, from [REDACTED], stating that she lives with the applicant; a copy of [REDACTED] Virginia Drivers License; and, a copy of a Lease Agreement between Presidential Greens, Alexandria, Virginia, and [REDACTED] and [REDACTED] dated November 24, 2000.

The documentation provided by the applicant is insufficient to establish his continuous residence in the United States since February 13, 2001, and continuous physical presence since March 9, 2001, to the date of filing his application on August 10, 2002. Therefore, it is concluded that the applicant has failed to establish that he has met the criteria described in 8 C.F.R. § 244.2(b) and (c). Consequently, the director's decision to deny the application for TPS on these grounds will be affirmed.

It is noted that on June 4, 1993, an Immigration Judge in Arlington, Virginia, administratively closed deportation proceedings against the applicant. Subsequently, on June 26, 1995, an Immigration Judge in Arlington, Virginia, granted the applicant voluntary departure on or before January 2, 1996, with an alternate order of deportation. The applicant failed to depart voluntarily and, therefore, was removed to El Salvador on June 2, 1998. Furthermore, the applicant was again removed from the United States to El Salvador on September 25, 1998 (under alien registration number [REDACTED]).

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.

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translate from the foreign language into English. 8 C.F.R § 103.2(b)(3). As the applicant failed to comply with the aforementioned, the document submitted will not be considered in the rendering of this decision