

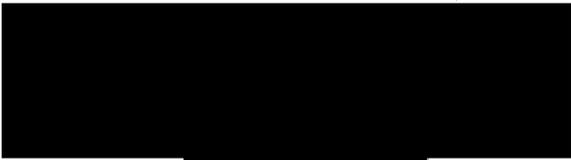


U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
[EAC 01 238 57813]

Office: Vermont Service Center

Date: MAR 05 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, reopened, and denied again by the Director, Vermont Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The applicant claims to be 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 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.

On appeal the applicant requests that CIS reconsider his application.

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. 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 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 applicant filed this Form I-821, application for Temporary Protected Status, on July 30, 2001, and submitted the following evidence:

1. Letter, dated July 14, 2001, signed by Julio Martinez, stating that the applicant has been working for his company since August 15, 2000.

On August 13, 2003, the applicant was requested to submit evidence establishing his continuous residence since February 13, 2001, and continuous physical presence since March 9, 2001, in the United States as well as his date of entry into the United States. The applicant, in response, provided the following documentation:

2. Letter, dated December 13, 2003, signed by [REDACTED] stating that the applicant rented a room in his house from January 1, 2001, until July 2002.
3. Copy of a Western Union Money Transfer receipt, dated May 27, 2001, bearing the applicant's name but which is unsigned, and thus does not appear to have been executed.
4. Copies of generic receipts, bearing the applicant's name and address referred to in the letter by [REDACTED], and which bear markings alleged to be the signatures of the affiant [REDACTED] and covering a period from January 2001, to April 2001.

The director denied the application, but the decision was subsequently appealed and remanded for a statement on the specific reason for the denial. On November 3, 2005, the director denied the application, having determined that the applicant had failed to submit sufficient evidence to establish his residence and presence during the required period.

On appeal, the applicant reasserts his claim and submits the following documentation:

5. Copies of checks made out to the applicant, and bearing a payer name [REDACTED], for the dates March 26, 2001 (check # [REDACTED]), May 12, 2001 (check # [REDACTED]), May 25, 2001 (check # [REDACTED]), June 6, 2001 (check # [REDACTED]), June 5, 2001 (check # [REDACTED]).
6. Copies of Western Union receipts bearing the applicant's name and dated July 1, 2001, and October 4, 2001.
7. Copies of checks made out to the applicant, and bearing a payer name [REDACTED] listing the same address as the checks listed in the [REDACTED]'s checks above, as well as [REDACTED] home address.

Evidence submitted by the applicant is highly suspicious, and adversely affects the weight of the evidence submitted. The letter submitted by [REDACTED] in item 1 states the applicant has worked for him since August of 2000, but no mention is made of this in a subsequent letter written in December of 2003. The rental receipts listed in Item 2 are generic in nature, and bear what appears to be an altered signature line, as the style, texture, and contrast of the first name is different from the second two parts of the name, as if "[REDACTED]" had been written in beside a prior signature and photocopied. These receipts are rejected as evidence. In addition, the checks listed in item 5 above, are out of sequential order with their dates, have not been cashed, and were not provided until appeal. This evidence lacks credibility, and will be rejected as authentic evidence.

It is incumbent upon the petitioner to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the petitioner submits competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). Doubt cast on any aspect of the petitioner's proof may, of course, lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. In this case the checks listed in Item 7 bear a business address which is the same as [REDACTED] home address, the applicant's home address, and the same address as [REDACTED] business [REDACTED]. In addition, the checks do not appear to have been cashed, and the evidence was also not submitted until the applicant appealed, despite having been specifically requested by the director. The AAO finds this evidence tainted and will not consider it for any purpose.

The only evidence left which does not appear to have been fabricated for the applicant by [REDACTED] are Western Union receipts. These two receipts are not sufficient to establish that the applicant was residing and present in the United States during the required period.

The applicant has not submitted any evidence to establish his qualifying continuous residence or continuous physical presence in the United States during the period required period. He has, thereby, 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 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 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.