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U.S. Citizenship  
and Immigration  
Services

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[REDACTED]

FILE: [REDACTED]  
[EAC 01 201 52059]

Office: VERMONT SERVICE CENTER

Date: NOV 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: 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.

Although a Form G-28, Notice of Entry of Appearance as Attorney or Representative, has been submitted, the individual named is not authorized under 8 C.F.R. § 292.1 or 292.2 to represent the applicant. Therefore, the applicant shall be considered as self-represented and the decision will be furnished only to the applicant.

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 director denied the application because the applicant failed to establish that he has continuously resided in the United States since February 13, 2001, and has been continuously physically present in the United States since March 9, 2001.

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 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 program for El Salvadorans was granted from September 9, 2003 until March 9, 2005. Subsequent extensions of the TPS designation have been granted with the latest extension valid until March 9, 2009, 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 record of proceedings shows that the applicant initially submitted a TPS application on June 12, 2001. The director denied the application on July 2, 2002, due to abandonment, because the applicant failed to report for fingerprinting as scheduled. The applicant filed a Motion to Reopen on September 16, 2002. The Director, Vermont Service Center, dismissed the motion as having been untimely filed on March 19, 2003.

The Service Center sua sponte reopened the case on motion and sent the applicant a Notice of Intent to Deny on April 12, 2007, requesting additional evidence of his residence since February 13, 2001, and physical presence since March 9, 2001. The applicant responded to the director's request for additional evidence on May 7, 2007. The Director denied the application on May 30, 2007, because the applicant had failed to submit sufficient evidence to establish his continuous residence since December 30, 1998, and continuous physical presence since January 5, 1999, in the United States.<sup>1</sup>

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<sup>1</sup> It is noted that the Director, Vermont Service Center, cited the time periods required for Hondurans rather than El Salvadorans. While this error is not insignificant, the record reflects that the director did cite the correct dates in the

The record also shows that the applicant filed a TPS application subsequent to the initial registration period under CIS receipt number EAC 03 226 50297. The application was denied by the Director, Vermont Service Center, on November 13, 2003, because the applicant failed to establish his eligibility for late registration. The applicant filed an appeal to the AAO. The Vermont Service Center requested that the case be remanded in order to reschedule the applicant for fingerprinting. The AAO remanded the case to the Vermont Service Center, per their request. The Director, Vermont Service Center, sent the applicant a Notice of Intent to Deny, requesting that he submit evidence to establish his eligibility for late registration, and his continuous residence and continuous physical presence in the United States. The applicant failed to respond to the Notice of Intent to Deny. The director denied the TPS application on April 12, 2007, because the applicant had failed to submit evidence to establish his eligibility for TPS.

In the current application before the AAO on appeal, the director determined that the applicant had failed to submit sufficient evidence to establish his continuous residence and continuous physical presence. The director noted that the applicant had submitted as evidence: affidavits from acquaintances; evidence of identity; a letter from a proposed employer; a pay stub dated April 27, 2001; an employment letter; money transfer receipts dated October 8, 2001 and June 30, 2002; advice notices from the Comptroller of Maryland for the 2002, 2003, 2004, and 2005 tax years; two pay stubs dated January 11, 2002, and December 27, 2002; a bank statement dated March 12, 2003; and three receipts from the Travelers Express Company bearing no name or date. The director further noted that the applicant had submitted sufficient evidence to establish his residence and physical presence in the United States since April 27, 2001, but noted that the applicant had not established his continuous residence and continuous physical presence prior to that date.

On appeal, the applicant reasserts his claim of eligibility for TPS and submits the following documentation:

1. A letter from Capitol Grounds Management in which the managing member stated that the applicant has been employed by the company since March 16, 2000, and that he initially stated that his name was [REDACTED]; and,
2. A paycheck stub from Capitol Grounds Management dated April 21, 2000, and bearing the name [REDACTED] as employee.

The applicant has not submitted sufficient evidence to establish his qualifying continuous residence and continuous physical presence in the United States. There has been insufficient documentation submitted to corroborate the statements made by the managing member of Capitol Grounds Management. The applicant claims to have lived in the United States since March of 2000. It is reasonable to expect that the applicant would have some other type of contemporaneous evidence to support these statements; however, no such evidence has been provided. The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. 8 C.F.R. § 244.9(b).

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Notice of Intent to Deny, and the evidence provided by the applicant will be examined in these proceedings in light of the qualifying dates for El Salvadorans.

The applicant has failed to establish that he has met the continuous residence and continuous physical presence 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.

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.