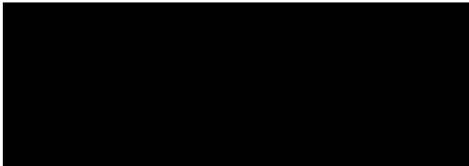




**U.S. Citizenship
and Immigration
Services**

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

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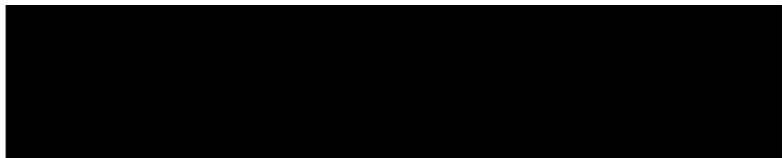


FILE: [REDACTED]
[EAC 02 253 51437]

Office: VERMONT SERVICE CENTER

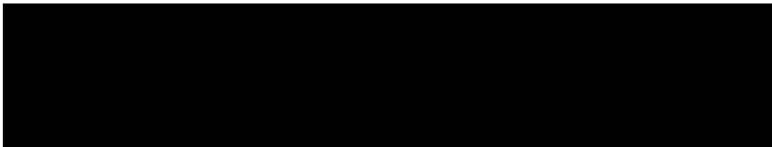
Date: **APR 02 2008**

INRE: 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 Director, Vermont Service Center, denied the initial application. On appeal, the Administrative Appeals Office (AAO) reopened the application *sua sponte* and remanded the case for further action and consideration. The application is again before the AAO 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 continuously resided in the United States since February 13, 2001, and had been continuously physically present in the United States since March 9, 2001. The applicant's motion to reopen and reconsider was forwarded to the AAO as an appeal.

On appeal, counsel submits additional documentation that he asserts establishes that the applicant is eligible 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 EI 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. The designation of TPS for EI Salvadorans has been extended several times, 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 applicant submitted the following evidence in attempt to establish his continuous residence from February 13, 2001, until the date he filed his Form 1-821, Application for Temporary Protected Status, on July 29, 2002:

1. A copy of a September 10, 2003, letter from Byrne Properties LLC, in whic stated that the applicant had been a tenant at Long Branch, New Jersey from September 2000 to October 2001. However, according to his Form 1-821 application, the applicant did not enter the United States until January 1, 2001.
2. A copy of a July 1, 2007, affidavit from [REDACTED] he stated that the applicant is his cousin, and that the applicant arrived at his house at [REDACTED] in Long Branch, New Jersey on February 9, 2001. The affiant stated that the applicant lived with him at this address until August 2001.

3. A copy of a July 1, 2007 affidavit from [REDACTED], in which he stated that he was a friend of the applicant's cousin [REDACTED], and that he met the applicant when he arrived at his cousin's house on February 9, 2001.
4. Copies of receipts dated January through March 2002 indicating that they were for [REDACTED] Long Branch.
5. A copy of a June 21, 2002, Federal Express international air waybill, showing the applicant as the recipient with an address in Long Branch, New Jersey.
6. A copy of a June 14, 2004, letter from [REDACTED], who listed his address at [REDACTED] Street in Long Branch, New Jersey, in which he certified that the applicant lived in the United States from January 2001 to "today." [REDACTED] did not state his relationship with the applicant or the basis of his knowledge of the applicant's residence in the United States.
7. A copy of a June 16, 2004, letter from Byrne Properties, LLC, signed by [REDACTED] stating that the applicant had lived at [REDACTED] in Long Branch since 2002.

On appeal, the applicant submits the following additional documentation:

8. Documentation from Check-Mate, Inc., in Asbury Park, New Jersey, indicating that the applicant received medical treatment on February 14, 2001.
9. An October 2, 2007, letter from Light of the World Missionary Church in Long Branch, New Jersey, in which the pastor certified that church records show that the applicant, who resided at [REDACTED] in Long Branch, attended the church in January 2001. However, this date is prior to the date that the applicant's cousin stated that the applicant arrived at his house and began living with him at the above address.
10. An undated letter from [REDACTED], in which he stated that the applicant was an employee of his company from February 1, 2001, to December 31, 2001.

The applicant also submitted the originals of the affidavits executed by [REDACTED] on July 1, 2007.

and.

The applicant claimed on his Form I-821 application that he arrived in the United States on January 1, 2001. However, a letter from Byrne Properties LLC indicated that he resided at [REDACTED] in Long Branch from September 2000 to [REDACTED] October 2001. The applicant's cousin [REDACTED] and applicant lived with his cousin at [REDACTED] in Long Branch from February 9, 2001, until August 2001. The letter from the World Missionary Church certified that the applicant, while living at his cousin's address, began attending the church in January 2001.

The applicant also submitted documentation dated in 2002 subsequent to the date he filed his Form 1-821 application, including a 2002 Form W-2, Wage and Tax Statement, issued to the applicant by Big Bear Construction & Landscape, Inc., in Neptune, New Jersey. The applicant also submitted two letters from Big Bear Construction and Landscaping, one dated September 2, 2003, stating that the applicant had worked for the company since November 2002 and the other dated June 11, 2004, which stated that the applicant had worked for the company since September 2002. The applicant signed both letters, indicating in the 2003 letter that he was a "manager." While the letters are subsequent to the applicant's Form 1-821, they are indicative of the inconsistencies contained within the record.

Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence, and 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 (BIA 1988). The applicant has failed to submit any objective evidence to explain or justify the inconsistencies regarding his entry and residences in the United States. Therefore, the reliability of the remaining evidence offered by the applicant is suspect and it must be 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 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.