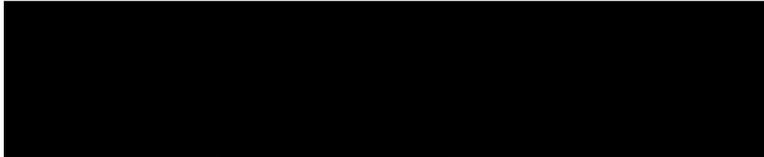




U.S. Citizenship  
and Immigration  
Services

**PUBLIC COPY**  
identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy

*M1*



FILE: [REDACTED]  
[LIN 03 139 50514]

Office: NEBRASKA SERVICE CENTER

Date: JAN 09 2008

IN RE: Applicant:

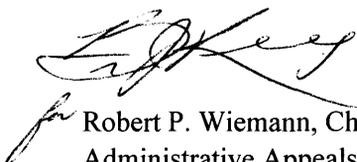


APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT: 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.

  
for Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, Nebraska Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

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 determined that the applicant failed to establish he: 1) had continuously resided in the United States since February 13, 2001; 2) had been continuously physically present in the United States since March 9, 2001; and 3) was eligible for late registration. The director also determined that the applicant failed to establish his date of entry prior to February 13, 2001, and provide evidence of his nationality and identity. The director, therefore, denied the application.

On appeal, the applicant provides additional documentation.

As stated in 8 C.F.R. § 244.1, "register" means "to properly file, with the director, a completed application, with proper fee, for Temporary Protected Status during the registration period designated under section 244(b) of the Act."

The record reveals that the applicant did file an initial application for TPS during the initial registration period on July 22, 2002. That application was denied on January 28, 2003, for failure to respond to a request for evidence to establish his eligibility for TPS. The applicant attempted to respond to the notice, however, the documentation was returned to the applicant on December 3, 2002. Therefore, the initial application was not abandoned. It is noted that the applicant submitted an appeal to the director's decision on February 18, 2003. The director reviewed the appeal to determine if it met the requirements of a motion to reopen and denied it on March 25, 2003 because the appeal did not meet the requirements.

The applicant filed a subsequent Form I-821, Application for Temporary Protected Status, on March 27, 2003. The director denied this second application because he determined that it was filed outside of the initial registration period and because the applicant had failed to establish his eligibility for filing under the provisions of late registration.

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 as 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.

The term *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 term *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 that they have continuously resided in the United States since February 13, 2001, and that they have been continuously physically present 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, with the latest extension granted until March 9, 2009, upon the applicant's re-registration during the requisite period.

The initial registration period for El Salvadorans was from March 9, 2001 to September 9, 2002. The record shows that the applicant filed his initial application on July 22, 2002, and a subsequent application on March 27, 2003.

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 first issue in this proceeding is whether the applicant is eligible for late registration.

The director determined that the applicant failed to respond to a request for additional evidence and denied the initial application for abandonment on January 28, 2003. The applicant, had, in fact, responded to the notice, but that response was returned to him on December 3, 2002, in order to provide additional information. The initial application was not abandoned, and as such, the subsequent application submitted on March 27, 2003 cannot be treated as an application for late registration. Therefore, late registration is not an issue in this proceeding. Thus, the director's denial of the application on this basis is withdrawn.

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 director concluded that the applicant had failed to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite periods and denied the application.

On appeal, the applicant furnishes copies of a Colorado Driver License, a California Certificate of live birth for his daughter, his passport, his birth certificate, with English translation, his Cedula with English translation, and a letter from [REDACTED]. The California birth certificate shows the applicant's daughter's birth date as January 7, 1989. The applicant indicates on his Form I-821 application that he entered the United States in March 2001, which is subsequent to the qualifying date of entry. Moreover, it does not establish his continuous residence and continuous physical presence during the qualifying period. Similarly, the driver license was issued in 2002, and the passport was issued in El Salvador on October 24, 2000. These documents are of no probative value in determining the applicant's qualifying continuous residence and continuous physical presence. [REDACTED] asserts that the applicant has been a member of the Denver Sur, Seventh Day Adventist Hispanic Church since the beginning of 2001. However, the letter has little evidentiary weight or probative value as it does not provide basic information that is expressly required by 8 C.F.R. § 244.9(a)(2)(v). Specifically, [REDACTED] does not explain the origin of the information to which he asserts knowledge, nor does he provide the specific inclusive dates of membership.

The applicant has failed to establish his qualifying continuous residence or continuous physical presence in the United States during the requisite periods. He has, therefore, 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 temporary protected status on these grounds will be affirmed.

Beyond the director's decision, it is noted that a Federal Bureau of Investigations (FBI) report indicates the applicant was arrested on July 1, 1987, by the Los Angeles Police Department for "Theft of Personal Property." However, no final disposition of this charge is in the record. Moreover, on the FBI report, the applicant's birthplace is listed as Mexico. The applicant's birth date is also variously listed as April 3, 1965, April 3, 1966, and May 15, 1966. No explanation of these inconsistencies is furnished. 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, in fact, lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988).

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.