

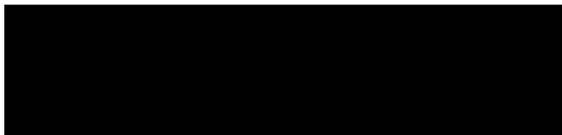
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U.S. Department of Homeland Security
20 Massachusetts Ave., N.W., Rm. 3000
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**U. S. Citizenship
and Immigration
Services**

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FILE:



[EAC 06 313 73630]

Office: VERMONT SERVICE CENTER

Date: *JAN 11 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:

Self-represented

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the Vermont Service Center. Any further inquiry must be made to that office.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

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 (AAO) on appeal. The appeal will be dismissed.

The applicant claims to be a citizen of EI 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 was eligible for late registration. The director also found that the applicant had failed to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite periods.

On appeal, the applicant requests that his application be reconsidered as he has a family to support. The applicant submits copies of Individual Income Tax Returns for 2000 and 2001.

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.

- (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 phrase continuously physically present, as defined in 8 C.P.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.P.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. The designation of TPS for El 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.P.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.P.R. § 244.9(b).

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

The initial registration period for EL Salvadorans was from March 9, 2001, through September 9, 2002. The record reveals that the applicant filed his initial TPS application on September 3, 2002, under Citizenship and Immigration Services (CIS) receipt number EAC0227950094. The Director, Vermont Service Center, denied that application on August 6, 2003, because the applicant failed to respond to an earlier notice. The case was remanded by the AAO on November 8, 2004, as the decision did not set forth specific reasons for the denial pursuant to 8 C.P.R. § 103.3(a)(1)(i). The director re-denied that application on July 11, 2005, because the applicant failed to establish continuous residence and physical presence in the United States during the requisite periods. The notice was returned by the post office as "moved-left no address."

The applicant filed a second TPS application on January 13, 2005, under CIS receipt number WAC0511271048, and indicated that he was re-registering for TPS. Electronic records indicate that application was denied by the Director, California Service Center, on August 16, 2005.

The applicant filed the current TPS application on July 30, 2006, and indicated that it was a late registration filing.

To qualify for late registration, the applicant must provide evidence that during the initial registration period he fell within at least one of the provisions described in 8 C.P.R. § 244.2(f)(2) above.

On January 8, 2007, the applicant was requested to submit evidence establishing his eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2). The applicant was also requested to submit evidence establishing his qualifying continuous residence and continuous physical presence in the United States. The applicant, in response, provided documentation relating to his residence and physical presence in the United States.

The director determined that the applicant had failed to establish he was eligible for late registration and denied the application on March 22, 2007.

The applicant submitted evidence in an attempt to establish his qualifying residence and physical presence in the United States. However, the applicant has not submitted any evidence to establish that he has met any of the criteria for late registration described in 8 C.F.R. § 244.2(f)(2). Consequently, the director's conclusion that the applicant had failed to establish his eligibility for late registration will be affirmed.

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.

As stated above, the applicant was requested on January 8, 2007 to submit evidence establishing his qualifying continuous residence and continuous physical presence in the United States. The applicant, in response, provided the following documentation:

- A letter dated January 27, 2007, from _ who attested to the applicant's employment for five months during 2001 as newspaper distributor at El Ojo Latino in Washington, D.C. metropolitan area.
- A letter dated January 29, 2007, from of Congregational Holiness Church, Inc., in Griffin, Georgia attesting to the applicant's membership since August 2001.
- Letters dated in January 2007, from **and**_, who indicated they have known the applicant since 2001 and attested to the applicant's character.

The director, in denying the application, determined that the letters did not meet the regulatory requirements and were insufficient to establish the applicant's eligibility for TPS, and denied the application on March 22, 2007.

On appeal, the applicant submits Individual Income Tax Returns for 2000 and 2001; however, the returns have no probative value or evidentiary weight as they were neither signed nor certified as being filed.

It is noted that on the income tax returns, the applicant indicates his occupation as construction; however, he failed to provide any evidence such as an employment verification letter from his employer, earnings statements or wage and tax statements to corroborate this employment.

A review of the evidence presented at the time the applicant filed his initial application (affidavits from three affiants claiming to know the applicant since 2000), on appeal from the denial of the initial application (affidavits from three affiants claiming to have known the applicant since 2000 and 2001), and evidence in response to the January 8, 2007, notice fails to establish continuous residence and physical presence during the requisite period.

The affiants all claimed "to have known" the applicant, but no attestations to the applicant's actual residence in the United States were indicated. The affiants provide no detail regarding the nature or origin of their relationships with the applicant or the basis for their continuing awareness of the applicant's residence.

The letter from [REDACTED] has little evidentiary weight or probative value as it does not conform to the basic requirements specified in 8 C.F.R. § 245a.2(d)(3)(v). Most importantly, the Bishop does not explain the origin of the information to which he attests. Furthermore, this letter raises questions to its authenticity as the church was located approximately 690 miles, an eleven-hour drive, from the applicant's place of residence in Virginia.

Doubt cast on any aspect of an applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence. It is incumbent upon an 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*, 191 & N Dec. 582, 591-92 (BIA 1988).

The applicant has not submitted sufficient credible evidence to establish his qualifying continuous residence in the United States since February 13, 2001, or his continuous physical presence in the United States since March 9, 2001. The applicant 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 TPS on these grounds will also 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.