



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

MI

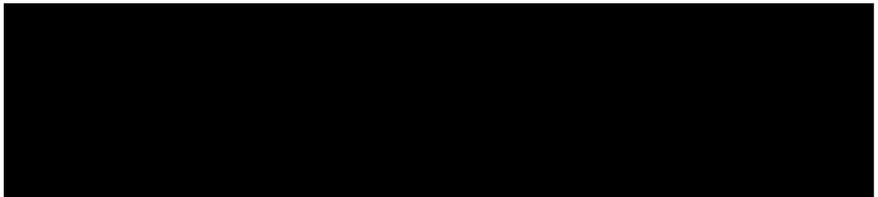


FILE: [REDACTED]
[SRC 01 204 54049]

Office: TEXAS SERVICE CENTER

Date: JAN 16 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:



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, Texas Service Center, denied the application on March 23, 2003. The director denied a subsequent motion to reopen on July 24, 2007. The matter 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 continuously resided in the United States since February 13, 2001, and been continuously physically present in the United States since March 9, 2001.

On appeal, counsel asserts that the applicant did not receive a request for additional information

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. 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.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).

As evidence of his eligibility for TPS, with his Form I-821, Application for Temporary Protected Status, which he filed on May 18, 2001, the applicant submitted a copy of an April 26, 2001, letter from [REDACTED], signed by [REDACTED]. [REDACTED] stated that the applicant had been an employee of his company for approximately four years. The employment 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)(i). Specifically, the letter is not in affidavit form, is not signed and attested to under penalty of perjury, and does not provide the address where the applicant resided during the period of his employment.

On January 10, 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. The applicant was also requested to submit a photo identity document. The applicant did not respond to the request. On March 23, 2003, the director denied the application for abandonment.

The applicant appealed the director's decision on May 25, 2007; however, as a denial for abandonment cannot be appealed, the director considered the appeal as a motion to reopen and reconsider, and reaffirmed

the previous decision, concluding that the applicant had failed to prove residence in the United States from February 13, 2001.

On appeal, counsel asserts that the applicant did not receive a request for additional information and that had he received the request, he would have submitted the required information. The applicant submits the following documentation:

1. A copy of correspondence from the legacy Immigration and Naturalization Service (INS) dated in June and August 2001.
2. A copy of an October 2, 2001, Texas Department of Public Safety identification card.
3. A copy of an August 20, 2002, Social Security Administration printout verifying the applicant's social security number.

The applicant submits a copy of a money order receipt; however the date is illegible. The applicant also resubmits a copy of the employment letter from [REDACTED]. As noted, the letter from [REDACTED] does not meet the evidentiary criteria of 8 C.F.R. § 244.9(a)(2)(i). The applicant submits no evidence, such as canceled checks, pay vouchers, or similar documentation, to corroborate his employment with [REDACTED].

The applicant has submitted insufficient evidence to establish his qualifying continuous residence or continuous physical presence in the United States during the period from February 13 to May 2001, when he filed his TPS application. 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.

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.

It is noted that on December 3, 2007, in removal proceedings before an immigration judge, the applicant was also denied TPS and ordered removed from the United States.

ORDER: The appeal is dismissed.