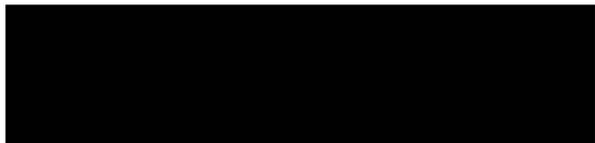


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FILE: [REDACTED]
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Office: CALIFORNIA SERVICE CENTER

Date: JAN 24 2008

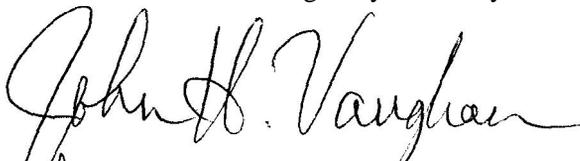
INRE: Applicant: [REDACTED]

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.


for Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, California Service Center (CSC), and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant, who claims to be a native and citizen of El Salvador, 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 his nationality and identity, as well as his eligibility for late registration. The director also found that the applicant failed to establish his **qualifying** continuous residence and continuous physical presence in the United States during the requisite time periods.

On appeal, the applicant submits a statement and additional documentation.

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 Temporary Protected Status only if such alien establishes that he:

- (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 § 244.3;
- (e) Is not ineligible under § 244.4; and
- (t)
 - (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.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 nationals of El Salvador must demonstrate continuous residence in the United States since February 13, 2001, and continuous physical presence since March 9, 2001. The initial registration period for Salvadorans was from March 9, 2001, through September 9, 2002. The applicant filed his Form 1-821, Application for Temporary Protected Status, with Citizenship and Immigration Services (CIS) on February 13, 2005 -- more than two years and five months after the initial registration period had ended.

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.F.R. § 244.2(f)(2) above.

The burden of proof is upon the applicant to establish that he meets the above requirements. Applicants shall submit all documentation as required in the instructions or requested by 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 burden of proof the applicant must provide supporting documentary evidence of eligibility apart from his own statements. 8 C.F.R. § 244.9(b).

In support of his initial application, the applicant submitted photocopies of his birth and marriage certificates, with English translations; affidavits from his brother and two acquaintances stating that the applicant has lived in the United States since January 2000; and, an Employment Authorization Card, valid from September 9, 2003, through March 9, 2005, issued to his spouse, [REDACTED]

On March 3, 2006, the applicant was requested to submit evidence establishing his nationality and identity and his eligibility for late registration. The applicant was also requested to submit evidence to establish his date of entry into the United States and his qualifying continuous residence and continuous physical presence in the United States during the requisite time periods. In response, the applicant submitted: a letter from the General Manager of Rancho Car Wash, Temecula, California, stating that the applicant had been employed since 2004; photocopies of his 2004 and 2005 Internal Revenue Service (IRS) Forms W-2, Wage and Tax Statements; and, photocopies of his IRS Forms 1040, U.S. Individual Tax Returns, and California Resident Income Tax Returns for the years 2000 through 2003.

The director determined that the applicant had failed to establish his nationality and identity, his eligibility for late registration, and his qualifying continuous residence and continuous physical presence in the United States during the requisite time periods. The director denied the application on May 1, 2006.

On appeal, the applicant asserts his claim to eligibility for TPS and submits the following additional documentation: affidavits from two additional acquaintances stating that the applicant has lived in the United States since 2000; and, a letter from _____, Long Beach, California, stating that the applicant was employed by the company from February 2000 through December 2000.

The applicant appears to be claiming that he is eligible for late registration under 8 C.F.R. § 244.2(f)(2)(iv) because he is the spouse of an alien currently eligible to be a TPS registrant. In order to qualify for late registration under 8 C.F.R. § 244.2(f)(2)(iv), the applicant must have been married to a TPS registrant during the initial registration period. CIS computer records and the alien registration file relating to the applicant's spouse reflects that they were married in El Salvador on June 1, 1990, and that the applicant's spouse is an approved TPS registrant. Therefore the applicant qualifies as the spouse of an alien currently eligible to be a TPS registrant, as required under § 244.2(f)(2)(iv). Accordingly, the applicant has overcome that ground for denial.

With respect to his residence and physical presence in the United States, the applicant claims to have lived continuously in this country since December 17, 1999. It is reasonable to expect, therefore, that the applicant would have a variety of credible, contemporaneous evidence to support this claim. Affidavits from relatives and acquaintances are not, by themselves, persuasive evidence of continuous residence and continuous physical presence in the United States. The tax documents of 2000 through 2003 can be given little weight as they are not accompanied by IRS Forms W-2 or certifications of filing, as required by 8 C.F.R. §244.9(a)(2)(i). The employment letters have little evidentiary weight or probative value since they do not conform to the requirements of 8 C.F.R. § 244.9(a)(2)(i). Specifically, they are not in affidavit form and do not provide the address where the applicant resided during the period(s) of employment, the exact period(s) of employment, and the period(s) of layoff (if any).

It is concluded that the applicant has not submitted sufficient evidence of the types discussed in the request for evidence on March 3, 2006, to establish his qualifying continuous residence in the United States since February 13, 2001, and continuous physical presence since March 9, 2001. Therefore, he has failed to establish that he meets the eligibility criteria described in 8 C.F.R. §§ 244.2(b) and (c). Consequently, the director's decision to deny the application for these reasons will be affirmed.

The applicant has also failed to submit sufficient evidence to establish his nationality and identity, as required under the provisions of 8 C.F.R. § 244.9(a)(1). Consequently, the director's decision to deny the application on this ground 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 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.