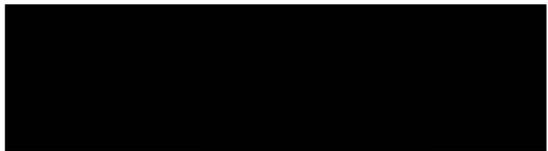




U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
[EAC 07 259 50880]

OFFICE: Vermont Service Center DATE: **JUN 30 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:
[REDACTED]

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. Wiemant, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Vermont Service Center (VSC), 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 record reveals that the applicant filed his initial TPS application on November 12, 2002, under Citizenship and Immigration Services (CIS) receipt number EAC 03 071 51039. The VSC director rejected that application for check deficiency on March 13, 2003. The applicant filed a TPS application on July 28, 2004, under CIS receipt number EAC 04 224 50352. The director denied that application on March 11, 2005 because the applicant failed to establish he was eligible for late registration. On March 23, 2005, the applicant filed an appeal from the denial decision. That appeal was dismissed by the Chief of the AAO on June 12, 2006, after determining that the applicant was not eligible for TPS.

On January 21, 2005, the applicant filed a TPS application under CIS receipt number WAC 05 127 73898, and indicated that he was re-registering for TPS. The director, California Service Center, denied that application on August 16, 2005 because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS. A subsequent appeal was dismissed by the Chief of the AAO on June 12, 2006.

The applicant filed his current TPS application on September 17, 2007, under CIS receipt number EAC 07 259 50880. The director denied that application because the applicant had failed to establish he was eligible for late registration. The director also found that the applicant had failed to establish his continuous residence and his continuous physical presence in the United States during the requisite periods.

On appeal, the applicant asserts his eligibility 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.
- (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 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).

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

The initial registration period for Salvadorans was from March 9, 2001, through September 9, 2002. The record reveals that the applicant filed his application with Citizenship and Immigration Services (CIS) on September 17, 2007. 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(1)(2) above.

The applicant was requested to submit evidence establishing his eligibility for late registration as set forth in 8 C.F.R. § 244.2(1)(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 October 25, 2007.

On appeal, the applicant states that he has continuously resided in the United States since February 13, 2001 and that he has been employed by Swim King Pools since January 1, 2001.

The applicant submitted evidence in an attempt to establish his **qualifying** residence and physical presence in the United States. However, this evidence does not mitigate the applicant's failure to file his Application for Temporary Protected Status within the initial registration period. 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(1)(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 or his continuous physical presence in the United States since March 9, 2001.

On appeal, the applicant reasserts his claim and submits the following documentation:

1. An employment letter dated January 15, 2005 from _____ General Manager of Swim King Pools, attesting that the applicant has been employed since January 1, 2001;
2. Copies of rent receipts dated January 1, 2001, February 1, 2001, March 1, 2001, March 1, 2002, and August 1, 2005;
3. A letter dated November 1, 2002 from American Home Assurance Company;
4. A letter dated October 28, 2002 from _____ RN, Case Manager, IIDI;
5. A copy of an invoice dated January 25, 2002 from Sleepy's, The Mattress Professionals; and,
6. A copy of a payment receipt dated January 30, 2002 from Sleepy's, The Mattress Professionals.

The employment affidavit from [REDACTED] has little evidentiary weight or probative value as it does not provide any corroborating evidence such as pay stubs, W-2 tax forms, or yearly income statements listing Swim King Pools as an employer of the applicant. While the rent receipts, payment receipts, and correspondence show the applicant was in the United States during the years 2001, 2002, and 2005, they do not establish that the applicant has continuously resided and been continuously physically present during the entire requisite period. The applicant claims to have lived in the United States March 25, 1998, it is reasonable to expect that the applicant would have some other type of contemporaneous evidence to support his claim. However, no such evidence has been provided.

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.