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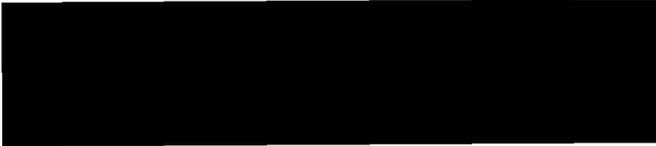
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U.S. Department of Homeland Security  
U. S. Citizenship and Immigration Services  
*Office of Administrative Appeals*  
Washington, DC 20529-2090

**U.S. Citizenship  
and Immigration  
Services**

MI



FILE: [REDACTED]  
[EAC 08 081 70081]

Office: VERMONT SERVICE CENTER

Date: JUL 20 2009

IN RE: 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:



**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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider, as required by 8 C.F.R. 103.5(a)(1)(i).

John F. Grissom  
Acting Chief, Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, Vermont 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 had: 1) continuously resided in the United States since February 13, 2001; and 2) been continuously physically present in the United States since March 9, 2001. The director, therefore, denied the application.

On appeal, counsel for the applicant states that the applicant has submitted sufficient evidence to establish that he has resided in the United States continuously during the requisite periods. The applicant also resubmits evidence previously provided in an attempt to establish his qualifying continuous residence and continuous physical presence in the United States.

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.

The term *continuously physically present*, as used 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 used 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 September 10, 2010, upon the applicant's re-registration during the requisite period.

The initial registration period for El Salvadorans was from March 9, 2001 through September 9, 2002. The applicant filed his initial TPS application on February 1, 2002. That application was denied as abandoned on July 15, 2003, because the applicant failed to respond to a request for additional information. **The applicant submitted a second TPS application on December 31, 2003.** That application was denied on October 28, 2004 for failure to submit proof of nationality, proof of eligibility for late initial registration and failure to provide evidence of continuous residence and continuous physical presence in the United States during the qualifying periods. The applicant submitted a third TPS application on May 13, 2005. On April 14, 2006, that application was erroneously denied as a re-registration application rather than an initial filing. The record shows that the applicant filed this TPS application on December 19, 2007.

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 United States Citizenship and Immigration Services (USCIS). 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).

In support of his TPS applications and previous requests for additional information, the applicant has submitted the following:

1. Copies of his El Salvadoran birth certificate, with English translation, his El Salvadoran Identification Card (“Cedula”), and his El Salvadoran passport.
2. Copies of a letter in Spanish, with no English translation, from [REDACTED] a letter from Capital One dated December 26, 2001, a letter from [REDACTED]
3. Copies of some hand-written rent receipts dated during the period from May 1, 2000 through January 1, 2002; a monthly statement from East Boston Savings Bank dated December 22, 2002; a bill from Commerce Insurance dated January 28, 2003; an Application for Massachusetts Vehicle Insurance dated March 25, 2002; and a customer letter from Thrifty Financial Services, Inc. dated September 8, 2003.
4. Copies of his El Salvadoran marriage certificate and evidence of his wife’s TPS-eligibility.
5. Copies of a Standard Report of Motor Vehicle Citation System dated March 2, 2004 indicating tickets issued on May 1, 2002, May 10, 2002, September 21, 2002, December 2, 2002, February 25, 2003, January 23, 2004, and February 2, 2004; Commonwealth of Massachusetts Certificates of Registration dated April 10, 2002; May 27, 2003; and March 10, 2004; and a temporary Massachusetts driver’s license issued on October 5, 2002.
6. Copies of a birth certificate for the applicant’s daughter who was born on February 26, 2005.

On appeal, the applicant also submitted documents that are already part of the record.

As stated, the record shows that the applicant filed this TPS application on December 19, 2007. The director determined that the applicant failed to submit sufficient evidence to establish his continuous residence and continuous physical presence in the United States during the qualifying period. Therefore, the director denied the application.

On appeal, counsel states the applicant has provided sufficient evidence to establish continuous physical presence in the United States. The applicant also resubmits evidence previously provided in an attempt to establish continuous residence and continuous physical presence in the United States during the qualifying period.

The birth certificate, passport and Cedula establish the applicant's identity and nationality. Fr. [REDACTED] states that the applicant has been a member of his congregation for three years. However, this statement has little evidentiary weight or probative value as it does not provide basic information that is expressly required by 8 C.F.R. § 245.9(a)(2)(v). Specifically, the pastor does not explain the origin of the information to which he attests. The hand-written rent receipts are not supported by any corroborative evidence. It is reasonable to expect that the applicant would have some type of contemporaneous evidence to support these assertions; however, no such evidence has been provided. The remaining evidence submitted is dated subsequent to the dates required to establish continuous residence and continuous physical presence in the United States.

The applicant has not submitted sufficient evidence to establish that he has met the criteria for continuous residence and continuous physical presence described in 8 C.F.R. § 244.2(b) and (c). Consequently, the director's decision to deny the application for temporary protected status will 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.