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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  
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Services

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FILE:

[EAC 08 057 71253]

Office: VERMONT SERVICE CENTER

Date: **MAY 01 2009**

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: 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.

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 claims to be 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, the applicant states that he has been in the United States since March 15, 2000. The applicant also submits evidence 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 record shows that the applicant filed this TPS application on October 26, 2007. The applicant filed his initial TPS application on September 5, 2002, under receipt number WAC 02 281 52834. The Director, California Service Center, denied that application because the applicant failed to establish continuous residence and continuous physical presence in the United States during the qualifying 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 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).

The record shows that the applicant filed his TPS application on October 26, 2007. In support of the present application, the applicant submitted the following:

1. Copies of a 2002 W-2, Wage and Tax Statement, and a 2002 Form 1040EZ, Income Tax Return for Single and Joint Filers With No Dependents.

2. Copies of pay stubs dated February 22, 2003, April 19, 2003, May 10, 2003, May 17, 2003, June 7, 2003, April 23, 2004, and October 29, 2004.
3. Copies of a Washington Mutual Bank Statement for period ending April 18, 2003, and a Comcast bill dated October 8, 2003.

On June 25, 2008, the applicant was provided the opportunity to submit evidence establishing continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States from March 9, 2001, to the filing date of the application. The applicant was also requested to provide proof of nationality and identity. The applicant, in response, provided:

4. Copies of a Notice of Intent to Deny the applicant's asylum request dated May 2, 2008, a Form I-589, Request for Asylum in the United States, and a Form I-797A, Approval Notice for TPS dated June 13, 2008.
5. A letter from [REDACTED] Tasker Metal Products, and an illegibly signed statement from a landlord dated July 11, 2008.
6. Copies of a 2001-2002 Locke Senior High identification card, a FREMONT Community Adult School student identification, a check cashing card, and copies of employment authorization cards.

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, the applicant states that he has been in the United States since March 15, 2000 and requests that his application be reconsidered. The applicant also submits evidence in an attempt to establish his qualifying continuous residence and continuous physical presence in the United States. Specifically, the applicant submits:

7. A personal statement and a copy of a birth certificate with English translation.
8. Copies of report cards dated April 2000, May 2000, June 2000, October 2000 and November 2000.

[REDACTED] stated that the applicant was employed by her company since January 2001. 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. § 244.9(a)(2)(i). Specifically, the affiant does not provide the address where the applicant resided during the period of his employment. The document from the landlord indicates that the applicant was a tenant in 2000. However, this statement also has little evidentiary weight or probative value. These statements 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 report cards

indicate the applicant was present in the United States prior to the dates to establish the continuous residence and continuous physical presence, but are of little or no probative value in establishing the applicant's continuous residence from February 13, 2001 and continuous physical presence from March 9, 2001 to the filing date of the TPS application. The remaining evidence is all dated subsequent to the requisite dates for continuous residence and continuous physical presence in the United States.

In response to the request for additional information, the applicant submitted a personal statement in which he claimed that he had incorrectly stated that he entered the United States on March 15, 2001 instead of March 15, 2000. On appeal, the applicant also submits a statement in which he claims that any inconsistencies are the result of a clerical error. However, it is noted that on his initial TPS application the applicant indicated that he entered the United States on June 27, 2001. These discrepancies have not been satisfactorily explained. Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. It is incumbent upon the 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*, 19 I&N Dec. 582 (BIA 1988).

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.

Beyond the director's decision, it is noted that although the applicant has submitted a copy of a birth certificate with English translation, it was not accompanied by a passport or any national identity document from the alien's country of origin bearing photo and/or fingerprint to establish his nationality and identity. Therefore, the application must be denied on this basis as well.

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.