

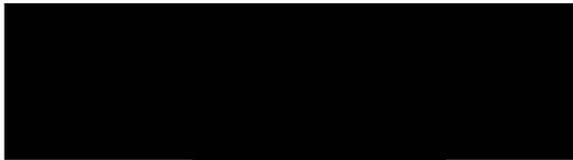
identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

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

COPY



U.S. Citizenship
and Immigration
Services



M.

SEP 25 2009

FILE: [REDACTED] Office: VERMONT SERVICE CENTER Date:
[EAC 08 050 80324]

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: 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 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: 1) had continuously resided in the United States since February 13, 2001; 2) had been continuously physically present in the United States since March 9, 2001; and 3) was eligible for late registration. The director, therefore, denied the application.

On appeal, the applicant provides a narrative of his TPS application process. 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.

- (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.

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.

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 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 application on October 24, 2007. The applicant filed his initial TPS application on May 11, 2005 under receipt number WAC 05 223 74015. The Director, California Service Center, denied that application on April 19, 2006 because the applicant failed to establish continuous residence and continuous physical presence and failed to establish his eligibility for late initial registration,

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

The record of proceeding confirms that the applicant filed his application after the initial registration period had closed. To qualify for late registration, the applicant must provide evidence that during the initial registration period from March 9, 2001 through September 9, 2002, he fell within the provisions described in 8 C.F.R. § 244.2(f)(2) (listed above). If the qualifying condition or application has expired or been terminated, the individual must file within a 60-day period immediately following the expiration or termination of the qualifying condition in order to be considered for the late initial registration. 8 C.F.R. § 244.2(g).

On April 19, 2006, the applicant was informed of the reasons his initial TPS application was denied. The director determined that the applicant had not provided any new and compelling evidence that would overcome these reasons for denying the initial TPS application. Therefore, the director denied the present application.

On appeal, the applicant provides a narrative explaining his process for filing for TPS, and admits that he filed his TPS application after the initial registration period. The applicant also submits evidence in an attempt to establish his continuous residence and physical presence in the United States during the qualifying period. However, this does not mitigate the applicant's failure to file his TPS application within the initial registration period. The applicant has not submitted sufficient evidence to establish that he has met any of the criteria for late registration described in 8 C.F.R. § 244.2(f)(2). Consequently, the director's conclusion that the applicant failed to establish his eligibility for late registration will be affirmed.

The second and third issues in this proceeding are whether the applicant has established his continuous residence in the United States since February 13, 2001, and his continuous physical presence in the United States since March 9, 2001.

In support of his TPS application, the applicant submitted:

1. A copy of his birth certificate, with English translation.
2. Copies of the money transfer receipts dated February 23, 2000; April 8, 2000; April 19, 2000; August 30, 2000; and, December 28, 2000.
3. Copies of U.S. Postal Service Express Mail receipts with illegible dates; a Broward County Public Schools Student Schedule/Receipt dated January 15, 2000; and residential leases entered into on September 15, 1999, June 9, 2000, and June 20, 2001.
4. A copy of a 2001 Form 1040, U.S. Individual Income Tax Return.

As stated above, on April 19, 2006, the applicant was informed of the reasons his initial TPS application

was denied, and that he had not overcome the reasons it was denied. The director concluded that the applicant had failed to establish his qualifying residence and physical presence in the United States during the requisite periods and denied the application. On appeal, the applicant submits:

5. Copies of his passport issued in Coral Gables, Florida on March 3, 2005, and a Florida Driver License issued on January 4, 2008.
6. Copies of statements from [REDACTED].
7. Copies of money transfer receipts dated from September 15, 2000 to April 25, 2001 and March 22, 2002 to June 7, 2008.
8. Copies of 2002-2007, tax documents.
9. Copies of an Account Summary from Metro PCS dated November 22, 2004; a bill from Bell South dated November 22, 2006; Account Statements from Bank Atlantic dated December 2, 2004; January 2, 2005; April 2, 2005; June 28, 2005; September 28, 2005; December 28, 2005; May 28, 2006; October 28, 2006; December 28, 2006; February 28, 2007; May 28, 2007; August 28, 2007; October 28, 2007; and December 28, 2007.

The applicant also resubmitted evidence previously provided

The passport and birth certificate establish the applicant's identity and nationality. [REDACTED] states that he has known the applicant for three years. However, this statement has little evidentiary weight or probative value. This statement is 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. Furthermore, the statement is dated June 7, 2008. Therefore, [REDACTED] can only attest to the applicant's presence in the United States since 2005. [REDACTED] statement requests that the applicant contact him regarding an investigation of an accident that occurred on July 4, 2004. Thus, these documents pertain to dates which are subsequent to the qualifying dates to establish continuous residence and continuous physical presence. The tax documents indicate the applicant worked during those years, just as the lease agreements indicate that the applicant signed them prior to and subsequent to the dates to establish qualifying continuous residence and continuous physical presence. Similarly, the Student Schedule Receipt indicates the applicant was present in the United States prior to the dates to establish continuous residence and continuous physical presence. However, these documents can not establish the applicant's continuous residence since February 13, 2001 and continuous physical presence from March 9, 2001 to the filing date of the TPS application.

The copies of money transfer receipts provided by the applicant are not supported by any other corroborative evidence. While 8 C.F.R. § 244.9(a)(2)(vi) specifically states that additional documents "may" be accepted in support of the applicant's claim, the regulations do not suggest that such evidence alone is necessarily sufficient to establish the applicant's qualifying residence or

physical presence in the United States. The applicant claims to have lived in the United States since September 1999. It is reasonable to expect that the applicant would have some other type of contemporaneous evidence to support these receipts; however, no such evidence has been provided. The remaining evidence is dated prior to or subsequent to the dates to establish continuous residence and continuous physical presence. Moreover, no money transfer receipts are provided for the period from April, 2001 to March 2002. Therefore, this evidence is of little or no probative value.

The applicant has not submitted sufficient evidence to establish his qualifying continuous residence since February 13, 2001, and his continuous physical presence in the United States from March 9, 2001 to the date the application was filed. He 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 temporary protected status 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 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.