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U.S. Department of Homeland Security
U. S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
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FILE: [REDACTED]
[EAC 09 034 78300]

Office: VERMONT SERVICE CENTER

Date: FEB 02 2010

IN RE: Applicant: [REDACTED]

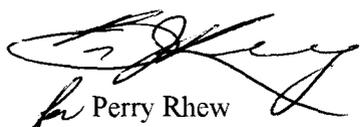
APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

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).


Perry Rhew
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: 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 states that he entered the United States on June 30, 2000, but he does not have many documents from his arrival to 2003. 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 31, 2008.

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 February 4, 2009, the applicant was provided the opportunity to submit evidence establishing his eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2). The applicant was also requested to submit evidence establishing his continuous residence in the United States since February 13, 2001, and his continuous physical presence in the United States from March 9, 2001, to the filing date of the application. The applicant, in response, provided evidence in an attempt to establish continuous residence and continuous physical presence during the qualifying period. He did not present evidence of his eligibility for late registration. Therefore, the director denied the application.

On appeal, the applicant states that he entered the United States on June 30, 2000, but he does not have many documents from his arrival to 2003 and does not have proof of any pending application. The applicant also submits evidence in an attempt to establish his qualifying continuous residence and continuous physical presence in the United States. 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. Copies of a birth certificate with English translation, and a copy of a State of North Carolina Driver License issued on November 3, 2004.
2. Copies of statements from [REDACTED], and [REDACTED]
3. Copies of 2003, 2005 tax documents; money order receipts dated October 16, 2005 and October 17, 2005; Internal Revenue Service Monthly Statements dated November 2, 2005, November 7, 2005, January 9, 2008, September 10, 2008, October 8, 2008; Certificate of Titles issued on October 30, 2004, January 5, 2005, November 23, 2005, March 11, 2006, June 10, 2006, July

29, 2008; and a State of North Carolina Registration card dated March 16, 2007.

4. Copies of a McDowell County Tax Collector bill dated March 24, 2008; Duke Energy bills dated October 3, 2006, August 29, 2008; Verizon bills dated September 7, 2005, August 7, 2006, October 7, 2007, and June 7, 2008; an Allstate Insurance Application dated December 20, 2007; Allstate bills with due dates of March 20, 2008 and September 20, 2008; automobile bills dated June 22, 2006, June 28, 2006, June 29, 2006, July 26, 2006, August 17, 2006, and September 12, 2005; Vision Financial Federal Credit Union statements dated June 30, 2006, July 31, 2006, August 31, 2006, September 30, 2006; Carolina First Bank Statements for April 16, 2008 – May 10, 2008, August 18, 2008 – September 17, 2008; and Carolina First Bank Account Agreements dated October 29, 2007.

As stated above, the applicant was requested on February 4, 2008 to submit evidence establishing his qualifying continuous residence and continuous physical presence in the United States. In response, the applicant submitted the following documentation:

5. Copies of statements from [REDACTED] the applicant's sister; money transfer receipts dated February 1, 2004, March 28, 2004, April 16, 2004, April 29, 2004, May 12, 2004, June 1, 2004, June 22, 2004, July 4, 2004, July 8, 2004, July 25, 2004, August 3, 2004, August 9, 2004, August 22, 2004, August 29, 2004, September 12, 2004, September 26, 2004, October 5, 2004, October 17, 2004, November 8, 2004, November 9, 2004, November 11, 2004, and December 18, 200(year missing), and January 18, 200(year missing).
6. Copies of an undated Form W-7, Application for IRS individual Taxpayer Identification Number; letters from [REDACTED] and [REDACTED]

The applicant also resubmitted evidence previously provided.

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 copies of retail receipts dated December 9, 2000, December 31, 2000, December 8, 2002; September 29, 2000, January 12, 2001, October 19, 2001, December 11, 2001, and July 24, 2003; and a Continuing Education Student Registration dated January 10, 2007. The applicant also submitted evidence previously provided.

[REDACTED] stated that the applicant worked for him from September 2000 through March 2006 and from October 2007. [REDACTED] stated that he employed the applicant from March 11, 2006 to October 10, 2007. [REDACTED] stated that his company employed the applicant from October 2003 through

April 2007. These statements have little evidentiary weight or probative value as they do not provide basic information that is expressly required by 8 C.F.R. § 244.9(a)(2)(i). Specifically, [REDACTED] fails to specify the applicant's exact periods of employment or the applicant's duties of employment. [REDACTED] fail to provide the applicant's address of record. Furthermore, [REDACTED] can only attest to the applicant's presence in the United States subsequent to the requisite dates to establish continuous residence and continuous physical presence.

[REDACTED] stated that the applicant rented a room in her house in from January 2001 to June 2006 and initially applied for TPS in 2008. [REDACTED] and [REDACTED] stated that they have known the applicant for several years. [REDACTED] stated that he has known the applicant for a short time. [REDACTED] stated that he has known the applicant since November 2008. [REDACTED] stated that he has known the applicant and the applicant would make a good citizen. These statements also have 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. In addition, other than [REDACTED] the affiants failed to specify the periods they have known the applicant. [REDACTED] can only attest to the applicant's presence in the United States since November 2008.

The 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 is dated subsequent to the dates to establish continuous residence and continuous physical presence. This evidence is therefore of little or no probative value.

The applicant has not submitted sufficient evidence to establish his qualifying 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.

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.