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



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

M,

[REDACTED]

FILE:

[REDACTED]

Office: VERMONT SERVICE CENTER

Date: **JUN 25 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:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. 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. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

A handwritten signature in black ink, appearing to read "Perry Rhew".

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Vermont Service Center. The matter was remanded by the Administrative Appeals Office (AAO). The application was again denied by the Director, Vermont Service Center, and the matter is now before the AAO 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, the applicant states that he entered the United States in September 1996 and would like to get his case reopened.

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 Secretary, Department of Homeland Security (Secretary), is eligible for TPS 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 Secretary 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 9, 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 18, 2001.

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).

On March 5, 2007, 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 director also requested that the applicant submit a sworn statement explaining the discrepancies in the evidence he presented. The applicant, in response, provided:

1. Copies of a Massachusetts drivers license with an illegible expiration date and no issue date; a Social Security Card with the number [REDACTED] pay statements for dates in 2000 and 2001 indicating the applicant is married and bearing Social Security number "032- 12-9087".
2. Copies of an El Salvadoran passport issued in Boston, Massachusetts on March 20, 2007, 1996 pay statements, and a letter from Rev. [REDACTED]
3. Copies of statements from [REDACTED], and a statement signed by several individuals; a medical record page; Texas Identification Card with expiration dates of December 8, 2001, and December 8, 2006, and 2002, 2003, 2004, and 2005 tax documents.

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 asserts that he has provided sufficient evidence to establish continuous physical presence in the United States. The applicant also submits additional evidence in an attempt to establish continuous residence and continuous physical presence in the United States during the qualifying periods. Specifically, the applicant submits:

1. A copy of a paycheck stub from [REDACTED] for pay period ending November 28, 1999.
2. A copy of a photograph dated July 2000.
3. Copies of a Center for Family Medicine billing statement for services received on September 26, 2001, dated October 31, 2001, and a Center for Family Medicine receipt dated November 13, 2001.
4. Copies of 2002, 2003, 2004, 2005 Form W-2, Wage and Tax Statements and Form 1040 EZ, Federal Income Tax Returns, 2002 and 2003 Massachusetts Resident Income Tax Returns.

The passport establishes the applicant's nationality and identity. The unsigned, uncertified copies of the submitted tax returns are insufficient to establish continuous residence and continuous physical presence in the United States during the qualifying period. Mr. [REDACTED], President, [REDACTED] stated that he employed the applicant for more than 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. § 244.9(a)(2)(i). Specifically, the affiant does not provide the address where the applicant resided during the period of his employment. It is further noted that the affiant did not indicate the applicant's duties of employment or the exact periods of

employment. Ms. [REDACTED] stated that she has known the applicant since February 2004. Rev. [REDACTED] stated that he has known the applicant since October 1996. However, 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. Furthermore, Ms. [REDACTED] can only attest to the applicant's presence in the United States since 2004 because she stated that she has known him since February 2004. Also, the applicant indicated on his TPS application that he entered the United States in September 1997, subsequent to the date Rev. [REDACTED] claims to have met the applicant. The applicant also submitted a statement signed by various individuals who state that they know and respect the applicant. However, this statement does not indicate the dates the signatories claim to have known the applicant or provide any evidence to establish the applicant's presence in the United States during the qualifying periods. The pay stubs and the July 2000 photo cannot establish the applicant's continuous residence since February 13, 2001 because they are dated prior to the qualifying date to establish continuous residence and continuous physical presence. The remaining evidence submitted in support of the TPS application 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 TPS 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 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.