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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  
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Services

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**MAR 03 2010**

FILE:

[EAC 07 087 70205]

Office: VERMONT SERVICE CENTER

Date:

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:

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 also determined that the applicant failed to establish his nationality and identity. The director, therefore, denied the application.

On appeal, counsel for the applicant states that the applicant entered the United States on May 10, 1998 and has a United States citizen son and a TPS recipient spouse. Counsel requests the application be reconsidered.

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 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 application on December 26, 2006. The applicant submitted his initial TPS application on September 26, 2001. The Director, Texas Service Center, denied this application as abandoned on June 22, 2004. The applicant filed a re-registration application on May 5, 2006. The Director, California Service Center denied this application as abandoned on September 6, 2005. The applicant filed a motion to reopen the director's decision on October 4, 2005. The Director, California Service Center, dismissed this motion on December 21, 2005.

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 12, 2007, 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 nationality and identity, 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 sufficient evidence of his nationality and identity or evidence of his eligibility for late registration. Therefore, the director denied the application.

On appeal, counsel for the applicant states that the applicant entered the United States on May 10, 1998 and has a United States citizen son and a TPS recipient spouse. The applicant has failed to provide any substantive evidence to establish that he is the spouse of a TPS-eligible alien. Counsel requests the application be reconsidered. 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.

As stated above, the applicant was requested on April 12, 2007 to submit evidence establishing his qualifying continuous residence and continuous physical presence in the United States. In response, the applicant submitted the following documentation:

1. Copies of statements from [REDACTED] and [REDACTED]
2. A copy of an Apartment Lease Contract dated October 2, 2000 with a lease

term from October 2, 2000 through September 30, 2001.

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:

3. Copies of statements from [REDACTED] and [REDACTED] his son's Certificate of Birth with a birth date of February 27, 2002; his wife's Employment Authorization Card issued on August 26, 2005, his birth certificate with English translation.
4. Copies of rent payments from November 7, 2002 through April 18, 2006; the first page of Apartment Lease Contracts with lease terms from September 30, 2001 through September 30, 2002 and from April 30, 2007 through May 31, 2008.
5. Copies of employment authorization cards and Social Security Cards; Texas Liability Cards issued on June 27, 2005 and March 23, 2007; and, Texas Certificates of Title issued on August 10, 2003 and May 24, 2005.
6. Copies of Reliant Energy bills dated August 14, 2006 and November 10, 2006; water/sewer utility bills with due dates of August 1, 2006 and March 1, 2007; Con Service bills with due dates of August 1, 2006 and March 1, 2007; AT&T monthly statement dated November 13, 2006; Washington Mutual monthly statement for period from September 1, 2006 through September 30, 2006; a letter from Washington Mutual dated February 16, 2007; and a Washington Mutual bank Account Transaction History indicating transactions from May 31, 2005 through December 16, 2005.
7. Texas Workforce Commission Statement of Account dated July 16, 2002; an Amegy Bank of Texas Adjustment dated March 20, 2006; a bill from [REDACTED] dated December 28, 2005; a Spanish language document with no English translation dated June 25, 2004; 2003, 2004, and 2005 Form 1040 U.S. Individual Income Tax Returns.

[REDACTED] states that he has known the applicant since January 1999. [REDACTED] states that he has known the applicant since February 1999. [REDACTED] states that she has known the applicant since 1999. [REDACTED] and [REDACTED] state that they have known the applicant since 1998. However, these statements 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. [REDACTED] stated that the applicant resided at [REDACTED] from October 2, 2000 until October 1, 2001. [REDACTED]'s statement is illegible. [REDACTED] stated that the applicant attended

his church since May 1998. 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, nor does he provide the address where the applicant resided during the period of his involvement with the church. The remaining evidence is dated subsequent to the dates to establish continuous residence and continuous physical presence.

The remaining evidence indicates the applicant was present in the United States prior to the requisite dates to establish continuous residence and continuous physical presence. However, the applicant has not provided any evidence of his presence in the United States from September 30, 2001 through November 7, 2002.

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.

The fourth issue in this proceeding is whether the applicant has established his nationality and identity. 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 his 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.