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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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U.S. Citizenship  
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FILE: [REDACTED]  
[EAC 08 303 70286]

Office: VERMONT SERVICE CENTER

Date: **MAR 05 2010**

IN RE: Applicant: [REDACTED]

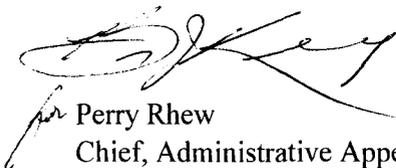
APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT:

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).

  
for 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 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) been continuously physically present in the United States since March 9, 2001. The director also determined that the applicant had failed to submit requested police clearance certificates. The director, therefore, denied the application.

On appeal, counsel for the applicant requests that the TPS application be reopened and the decision to deny it be reconsidered. The applicant also submits additional evidence and states that he would submit additional evidence within 30 days. To date, there has been no further correspondence from the applicant or counsel. Therefore, the record must be considered complete.

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 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 his initial TPS application on July 27, 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 record shows that the applicant filed his TPS application on July 27, 2008. On October 27, 2008, the applicant was provided the opportunity to submit evidence establishing his continuous physical presence in the United States from 2006, to the filing date of the application. The applicant was also requested to submit local police clearance certificates for each jurisdiction in which he resided for six months or more and proof of nationality and identity. The applicant, in response, provided copies of a Temporary El Salvadoran passport issued in Los Angeles on September 2, 2008; a California Driver

License; statements from [REDACTED] and [REDACTED] and undated photographs

The director determined that the applicant failed to submit sufficient evidence to establish his continuous physical presence in the United States during the qualifying period. Therefore, the director denied the application.

On appeal, counsel requests that the TPS application be reopened and the decision to deny be reconsidered. The applicant also submits additional evidence in an attempt to establish TPS eligibility. Specifically, the applicant submits copies of his mother's pay stubs dated March 6, 2009 and March 13, 2009; a Superior Court of California, County of Orange Record Search Information and Certification; a personal statement from the applicant; a statement from [REDACTED] a statement from counsel; a letter from Selective Service System dated August 22, 2008; a document from Central Justice Center dated June 15, 2009; and a monthly rental agreement signed by the applicant's mother on April 20, 2003.

The temporary passport establishes the applicant's nationality and identity. [REDACTED] states that she has known the applicant and his mother since 2002. [REDACTED] states that she has known the applicant since February 2004. [REDACTED] states that he has known the applicant since March 1994. [REDACTED] states that she has known the applicant since September 2006. [REDACTED] states that he has known the applicant since July 1998. [REDACTED] states that he has known the applicant since September 1998. 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, [REDACTED] and [REDACTED] can only attest to the applicant's presence in the United States since 2002, 2004 and 2006 respectively. The photos are undated and are therefore of little or no probative value.

Counsel states that she has included documents originally submitted to the Vermont Service Center which for some reason were not included in the file. In his personal statement, the applicant provides a chronology of his arrival and life in the United States. The County of Orange Police Clearance Certification indicates that no criminal record was found for the applicant from 1989 through March 13, 2009. The Selective Service System and Central Justice Center letters are all dated subsequent to the requisite dates to establish continuous physical presence in the United States from March 9, 2001 to the filing date of the TPS application. The remaining evidence is in the name of the applicant's mother and offers no connection to the application. Therefore, this evidence is also of little or no probative value.

The applicant has not submitted sufficient evidence to establish that he has met the criteria for 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.

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.