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U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Administrative Appeals Office (AAO)  
20 Massachusetts Ave., N.W., MS 2090  
Washington, DC 20529-2090



U.S. Citizenship  
and Immigration  
Services

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DATE: **APR 27 2011** Office: VERMONT SERVICE CENTER

FILE: [REDACTED]  
SRC 02 089 53699

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:  
[REDACTED]

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 Vermont Service Center. 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 Vermont Service Center by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$630. 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,

Perry Rhew  
Chief, Administrative Appeals Office

**DISCUSSION:** The applicant's Temporary Protected Status was withdrawn by the Director, Vermont Service Center. The matter is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The applicant is a 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 withdrew TPS because 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.

On appeal, the applicant asserts that the director's decision is in error as he first entered the United States in December 1996. In support of his appeal, the applicant submits additional documentation including a letter from an employer verifying employment from February 2001 to April 2001.

The director may withdraw the status of an alien granted TPS under section 244 of the Act at any time if it is determined that the alien was not in fact eligible at the time such status was granted, or at any time thereafter becomes ineligible for such status. 8 C.F.R. § 244.14(a)(1).

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 is eligible for TPS only if such alien establishes that he or she:

- (a) Is a national of a 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 Temporary Protected Status 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 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.

The term *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 continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States since March 9, 2001. The designation of TPS for El Salvadorans has been extended several times, with the latest extension valid until March 9, 2012, upon the applicant's re-registration during the requisite time period.

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 U.S. 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).

USCIS records reflect that on June 29, 2001, the applicant was apprehended in Texas by the U.S. Border Patrol. At the time of his apprehension, the applicant indicated that on June 7, 2001, he departed El Salvador and traveled by bus to Guatemala, where he spent two days, and he then travelled by bus and afoot to Ciudad Del Carmen, Mexico and stayed for five days. The applicant indicated that he arrived in Matamoros, Mexico on or about June 25, 2001, and on June 26, 2001, he waded across the Rio Grande River from Mexico into the United States near Brownsville, Texas. The applicant indicated that he was traveling to Houston, Texas in order to find work and stay with a cousin.

The director, in withdrawing TPS on January 6, 2011, determined that the applicant had failed to establish eligibility for TPS as the evidence of record did not reflect that he was continuously residing in the United States from February 13, 2001, and that he was continuously physically present in the United States from March 9, 2001.

On appeal, the applicant submits photocopies of:

- An undated letter from [REDACTED] owner/project manager of C.J.F. Contracting Company in Grande Prairie, Texas, who indicated that the applicant was in his employ in "February, March and April 2001."
- Money order receipts dated January 31, 1998, March 8, 1998, April 20, 1998, and July 15, 1998.
- Pay stubs dated April 23, 1998, May 7, 1998, October 18, 1998, November 1 and 15, 1998.
- A receipt from the City of Houston Municipal Courts dated "02/11/200".
- A Texas identification card which expired on July 29, 2001.
- An application fee receipt for a Texas driver license issued on September 12, 2001.
- A Texas driver license which expired on July 29, 2009.
- Form I-797s, Notice of Action, for his TPS applications, applications for employment authorization, ASC appointment notice and Notice of Appeal or Motion.

The employment letter from [REDACTED] fails to include the applicant's address at the time of employment as required under 8 C.F.R. § 244.9(a)(2)(i). In addition, no supporting evidence such as pay stubs or a wage and tax statement was submitted. It is unclear why the applicant would keep pay stubs dated in 1998, but none for 2001 to support the letter from [REDACTED]

No evidence such as a lease agreement, utility statements, or affidavits from affiants has been submitted to corroborate the applicant's claim to have been in the United States since February 2001. The absence of sufficiently detailed documentation to corroborate the applicant's claim of continuous residence since February 13, 2001, and continuous physical presence since March 9, 2001, seriously detracts from the credibility of his claim.

The applicant has not addressed the fact that he was apprehended by the U.S. Border Patrol subsequent to entering the United States without inspection in June 2001. The applicant also has not addressed his statements made at the time of the apprehension to have been in El Salvador, Guatemala and Mexico in June 2001.

Doubt cast on any aspect of an applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence. It is incumbent upon an applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth, in fact, lies, will not suffice. *Matter of Ho*, 19 I& N Dec. 582, 591-92 (BIA 1988).

The applicant has not submitted any credible evidence to establish his qualifying continuous residence or continuous physical presence in the United States during the requisite periods. He has, thereby, 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 withdraw TPS on these issues will be affirmed.

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.

Finally, while not the basis for the dismissal of the appeal, it is noted that the record reflects that, a Form I-862, Notice to Appear, was issued and served on the applicant on June 30, 2001. A removal hearing was held on November 19, 2001, and the alien was ordered removed from the United States.

**ORDER:** The appeal is dismissed.