

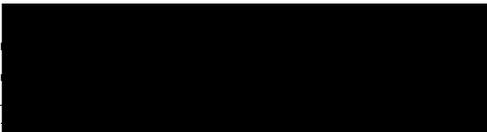
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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services



M1

DATE: JUL 27 2011

Office: VERMONT SERVICE CENTER

FILE: [Redacted]

IN RE: Applicant: [Redacted]

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

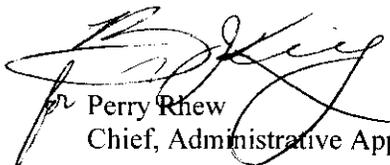
ON BEHALF OF APPLICANT: Self-represented

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 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 application was denied by the Director, Vermont Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant claims to be 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 denied the application because that the applicant had failed to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite periods. The director also determined that the applicant failed to establish he was eligible for late registration.

On appeal, the applicant requests that his application be reconsidered and submits additional documents in an attempt to establish 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 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.

- (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.

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).

The first issue in this proceeding is whether the applicant is eligible for late registration.

The initial registration period for El Salvadorans was from March 9, 2001, through September 9, 2002. The record reveals that the applicant filed his application with USCIS on April 25, 2005. To qualify for late registration, the applicant must provide evidence that during the initial

registration period he fell within at least one of the provisions described in 8 C.F.R. § 244.2(f)(2) above.

The director noted in his decision that the applicant's parents were currently TPS registrants. The director asserted, "[r]ecords show your date of birth to be April 09, 1980, making you 22 years of age at the time of the initial registration, for TPS eligibility you must have been unmarried and under 21 years of age prior to September 09, 2002."

A review of the record reflects that the applicant was 20 years and 11 months old at the start of the initial registration period and was 22 years old by the end of the registration period.

In a recent decision, the Board of Immigration Appeals (BIA) held that the regulations require that a late registrant be a "child" only "at the time of the initial registration period," not at the time when the application for late initial registration is filed. The BIA further held that the regulation at 8 C.F.R. § 244.2(g) does not apply to a child who seeks late initial registration for TPS benefits. *See Matter of N-C-M-*, 25 I&N Dec. 535 (BIA 2011).

In view of the above, the director's finding that the applicant had failed to establish eligibility for late registration will be withdrawn.

The second and third issues to be addressed 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.

Along with his TPS application, the applicant submitted: 1) an affidavit dated February 15, 2005, from [REDACTED] who indicated that he has known the applicant since January 2001 and attested to the applicant's moral character; 2) an affidavit dated January 29, 2005, from [REDACTED] who indicated that she has known the applicant since February 2000 and attested to the applicant's moral character; 3) a statement dated February 14, 2005 from [REDACTED] who indicated that he has maintained a really good friendship with the applicant since January 2000, and attested to the applicant's moral character; 4) a letter dated January 26, 2005, purportedly from a representative of [REDACTED] who indicated that the applicant attended English classes in September 2003 and again in September 2004; and 5) two photocopied envelopes postmarked in 2000 and addressed to the applicant at [REDACTED]

On June 1, 2006, the applicant was requested to submit evidence establishing his continuous residence since February 13, 2001, and continuous physical presence since March 9, 2001, in the United States.. The applicant, in response, provided the following:

- A photocopied prescription document from a medical doctor [REDACTED] who indicated that the applicant "had visited me 3 times since the 1st visit on Nov 12, 2000."
- A Western Union receipt dated April 9, 2001
- An envelope with an indecipherable postmark.

The director determined that the applicant had failed to submit sufficient evidence to establish his eligibility for TPS and denied the application on July 27, 2006.

On appeal, the applicant submits copies of the documents that were previously provided along with photocopies of a Western Union receipt dated May 6, 2002, and money transfer receipts dated December 16, 2003, July 8, 2004, and January 25 2005.

The AAO does not view the documents discussed above as substantive enough to support a finding that the applicant has continuously resided since February 13, 2001, and has been continuously physically present since March 9, 2001, in the United States as he has presented contradictory and inconsistent documents, which undermines his credibility.

██████████ and ██████████ claimed to have known the applicant since January 2000 and February 2000, respectively. However, the applicant claimed on his TPS application to have entered the United States in March 2000.

The ██████████ has little probative value as the years the applicant purportedly attended English classes have been altered.

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 (BIA 1988).

The statement from ██████████ only serves to establish that the applicant visited the affiant on November 12, 2000, and lacks probative value as it is not accompanied by any corroborative evidence. The remaining affiant, ██████████ did not provide detailed accounts of an ongoing association establishing a relationship under which he could be reasonably expected to have personal knowledge of the applicant's residence, activities and whereabouts during the requisite periods.

The Western Union and money transfer receipts only serve to establish the applicant's presence on the respective dates; they do not establish continuous residence and continuous physical presence in the United States during the requisite periods.

Given the credibility issues arising from the documentation provided by the applicant, it is determined that the applicant has not met his burden of proof. The applicant has not submitted sufficient credible evidence to establish his qualifying continuous residence in the United States since February 13, 2001, and his continuous physical presence in the United States since March 9, 2001. The applicant 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 TPS on these grounds 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.