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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: NOV 03 2011

Office: VERMONT SERVICE CENTER

FILE: 

IN RE: Applicant: 

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

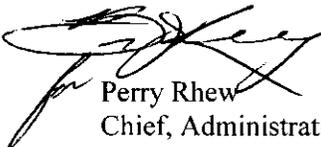
ON BEHALF OF APPLICANT: Self-represented

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

On appeal, the applicant asserts, in pertinent part:

I want to let you know that I consider that I am in valid non-immigrant status, not because I came into the U.S. with a visa but because I came with the intention of staying only temporarily. I never had the chance or opportunity to be able to qualify for a visa. In reference to the evidence that I previously had submitted; On March 17, 2011, I submitted the requested evidence. I explained to you that I had submitted a lot more evidence than the ones that you mentioned. I am sending you a list of all the evidence that was submitted before and the new evidence that I am currently submitting.

The applicant submits additional copies of documents in an attempt to establish continuous residence and continuous physical presence in the United States during the requisite periods.

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 AAO conducts appellate review on a *de novo* basis. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004).

The first and second issues to be addressed are whether the applicant has established continuous residence since February 13, 2001, and continuous physical presence since March 9, 2001, in the United States.

Along with his TPS application, the applicant submitted copies of the following documents:

- A receipt dated January 14, 2001, from Huntingburg Urgent Care Center in Huntingburg, Indiana.
- Rent receipts dated January 2, 2001, and February 12, 2001, for residence at [REDACTED], Indiana.
- A receipt dated July 7, 2001.
- Money transfer receipts dated November 26, 2005, September 22, 2006, November 12, 2007, March 16, 2008, September 18, 2009, and January 24, 2010.
- A birth certificate for his son, who was born on November 4, 2007, in Indiana.

In the notice dated March 1, 2011, the director, noted that the applicant, in an attempt to establish his residence in the United States, had not provided any evidence to establish his continuous residence in the United States for 2002 through 2004, 2006, and from 2008 through 2010. The applicant was requested to submit evidence establishing his qualifying continuous residence since February 13, 2001, and continuous physical presence from March 9, 2001. The applicant, in response, submitted copies of documents that were previously provided along with:

- A credit card statement dated January 9, 2002.
- A billing statement dated November 22, 2003, from Verizon.
- A document from [REDACTED], Indiana regarding a visit on May 31, 2004.
- A money transfer receipt dated February 26, 2011.

The director, in denying the application, determined that the evidence submitted was sufficient to establish the applicant's residence for 2001 through 2005 and 2007, but he had not submitted sufficient evidence for 2008 through 2010.

On appeal, the applicant submits copies of documents that were previously submitted along with:

- Rent receipts dated February 3, 2002, May 3, 2002, June 3, 2002, August 3, 2003, and October 3, 2003, for residence at [REDACTED].

- Rent receipts dated April 2, 2004, May 2, 2004 and June 2, 2004 for residence at [REDACTED]
- Money transfer receipts dated in 2005 (October and December), 2006 (July through November), 2007 (January, February, May through September and December), 2008 (February, April and December), 2009 (September), 2010 (June, July and December), and 2011 (January, February and April).
- A document from Memorial Hospital and Health Care Center in Jasper, Indiana regarding his son's visits on March 12 and 26, 2009.
- Documentation written in the Spanish language without the required English translation.

The documents provided throughout the application process and on appeal are sufficient to establish the applicant's continuous residence and his continuous physical presence in the United States during the requisite periods. Consequently, the director's decision to deny the application on these grounds will be withdrawn.

The third 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 on August 12, 2010. 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.

On March 1, 2011, the applicant was also requested to submit evidence establishing his eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2). The applicant, in response, asserted that he qualified for late registration because he was in a valid immigration status during the initial registration period.

The director determined that the applicant had failed to submit evidence to support his assertion that he was in a valid immigration status during the initial registration period. Accordingly, the director concluded that the applicant had failed to establish he was eligible for late registration and denied the application on May 6, 2011.

The provisions for late registration were created in order to ensure that TPS benefits were made available to aliens who did not register during the initial registration period for the various circumstances specifically identified in the regulations. The applicant, on appeal, has not submitted evidence that he has met one of those provisions outlined in 8 C.F.R. § 244.2(f)(2).

Consequently, the director's conclusion that the applicant had failed to establish his eligibility for late registration 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.

ORDER: The appeal is dismissed.