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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:  
**SEP 28 2012**

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 AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of \$630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to 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 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 denied the application because 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 submits additional evidence in an attempt to establish his continuous residence and continuous physical presence in the United States during the requisite periods.

The applicant put forth a Freedom of Information Act (FOIA) request, which was processed on May 18, 2012.

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 September 9, 2013, 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. 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 record reveals that the applicant filed his TPS application on September 15, 2010.

On December 20, 2010, the applicant was 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, only provided documentation relating to his residence and physical presence in the United States.

The director determined that the applicant had failed to establish he was eligible for late registration and denied the application on March 11, 2011.

On appeal, the applicant neither addresses the finding of his ineligibility as a late registrant nor provides any evidence to establish his eligibility as a late registrant. 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 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.

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:

- Affidavits notarized September 7, 2010, from [REDACTED] and [REDACTED] of New Jersey. [REDACTED] indicated that she has known the applicant since September 1999 and [REDACTED] and [REDACTED] indicated that they have known the applicant for over nine years. The affiants attested to the applicant's residence at [REDACTED] New York and to his moral character.
- An affidavit notarized September 7, 2010, from [REDACTED] New Jersey, who indicated that since August 1999, the applicant has been in his employ as a [REDACTED] self employed." The affiant attested to the applicant's residence at [REDACTED] New York and to his moral character.

On December 20, 2010, the applicant was also requested to submit evidence establishing his qualifying continuous residence and continuous physical presence in the United States. The applicant, in response, asserted, "I don't have W2 due to the fact that the years I file Federal Taxes was a self employed." The applicant stated that he only has one money gram receipt to provide for evidence of his residence as the early receipts were thrown away. The applicant provided:

- A [REDACTED] receipt dated September 16, 2003.
- An additional affidavit from [REDACTED] who indicated that the applicant was in his employ as a [REDACTED] from August 1999 to January 31, 2008.
- A letter from [REDACTED] in [REDACTED] New Jersey, who indicated the church's records reflect that the applicant attended English as a Second Language (ESL) classes from November 1998 to June 2000, and that the applicant frequently attended worship services. The affiant also indicated that he and the applicant have traveled together to visit the sick and collect food for the needy.
- An affidavit notarized January 3, 2011, from [REDACTED] [REDACTED] who indicated that the applicant has been working with him as a self-employed [REDACTED] since February 10, 2008.

The director determined that the evidence submitted was not sufficient to establish continuous residence and continuous physical presence during the requisite periods. The director concluded that the applicant had failed to establish his eligibility for TPS and denied the application.

On appeal, submits additional copies of the affidavits previously provided along with four rent receipts dated during 2001 and a two-year lease agreement entered into between the applicant and the landlord on January 1, 2001 for residence at [REDACTED] New Jersey.

As noted above, the sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. In the instant case, the evidence submitted lacks credibility and probative value. Specifically:

1. The letter from [REDACTED] raises questions to its authenticity as the applicant claimed on his TPS application to have entered the United States on August 15, 1999. Further, no corroborating evidence has been provided to support the affiant's claim that the applicant attended ESL classes during the period in question.
2. The employment letters from [REDACTED] and [REDACTED] lack probative value and evidentiary weight as they failed to include the applicant's address at the time of employment as required under 8 C.F.R. § 244.9(a)(2)(i). Further, if the applicant was working since August 1999, it is unclear why the Federal income tax returns the applicant claimed he had filed were not submitted as evidence as they would have credibly established his residence and physical presence in the United States.
3. The lease agreement and rent receipts may only serve to establish the applicant was residing in the United States during 2001; they do not establish continuous residence as no corroborative evidence has been provided to support the lease agreement for 2002 and 2003.
4. Considering the length of time the remaining affiants claim to have known the applicant, the affiants provide remarkably few details about the applicant's life in

the United States, such as where he worked and their interaction with him over the years. The absence of sufficiently detailed documentation to corroborate the applicant's claim of continuous residence seriously detracts from the credibility of his claim.

5. The Western Union money-gram receipt only serves to establish that the applicant was present in the United States on September 16, 2003; it does not establish continuous residence or continuous physical presence.

Assuming *arguendo*, the applicant had presented sufficient credible evidence to support a claim of continuous residence and continuous physical presence in the United States during the requisite periods, he would still remain ineligible for the benefit sought as he has failed to establish eligibility for late registration.

The applicant has not submitted sufficient credible evidence to establish his qualifying continuous residence in the United States since February 13, 2001, or 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 also 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.