

(b)(6)

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



DATE: **JAN 23 2013** 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,

for Ron M. Rosenberg  
Acting 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 that he was eligible to file a TPS application after the initial registration period from March 9, 2001 through September 9, 2002. The director also determined that the applicant failed to establish that he has continuously resided in the United States for the requisite period. The director, therefore, denied the application.

The director denied the application because the applicant failed to establish he was eligible for late registration and that he has continuously resided in the United States since February 13, 2001 as required under the statute.

On appeal, the applicant claims that the director erred in denying his TPS application. The applicant asserts that he has demonstrated his continuous physical presence in the United States for the requisite period.

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, now the Secretary, Department of Homeland Security (Secretary), is eligible for TPS 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 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 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.
- (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 initial TPS application on November 7, 2010.

On October 19, 2011, 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) and that he had been present and resided in the United States during the requisite time periods. The applicant, in response, provided documentation relating to initial residence in the United States.

The director determined that the applicant had provided sufficient evidence to prove his presence and residency during the requisite time frame, but that the applicant failed to establish his eligibility for late registration and his continuous residence in the United States since February 13, 2001. Consequently, the director denied the application on February 9, 2012.

On appeal, the applicant asserts that he has demonstrated his physical presence in the United States for the requisite time period. The applicant also submits additional evidence in an attempt to establish continuous residence and continuous physical presence in the United States during the qualifying period. Specifically, the applicant submits:

1. A letter from T [REDACTED], dated February 12, 2012, stating that the applicant had been employed since July 10, 2006.
2. A statement dated January 14, 2012, from [REDACTED], stating that the applicant "is an active patient at [REDACTED]" and that the applicant came to the office with his guardian on April 4, 2001 for dental examination and treatment.
3. Copies of "Health History" and dental records from [REDACTED] D.D.S., P.C dated February 15, 2001 in the Spanish language without the required English translation.<sup>1</sup>
4. A statement dated February 12, 2012 from Pastor [REDACTED] stating that the applicant and his parents were members of his church from May 15, 2001 until October 18, 2006.

Other documents in the record include the applicant's school records from [REDACTED] School District for the school years 2000-2001 and 2005-2006.

---

<sup>1</sup> Any document containing foreign language submitted to USCIS shall be accompanied by a full English translation which the translator has certified as complete and accurate, and by the translator's certification that he or she is competent to translate from the foreign language into English. 8 C.F.R. § 103.2(b)(3).

The applicant does not address the issue of his late initial registration and does not submit any documentation addressing the reasons for filing his TPS application late.

Upon a *de novo* review of the record, the AAO finds that the applicant has not submitted any evidence to establish that he has met any of the criteria for late registration described 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 issue to be addressed is whether the applicant has established his continuous residence in the United States since February 13, 2001, pursuant to Section 244(c)(1)(A)(ii) of the Act and his continuous physical presence in the United States since March 9, 2001.

On October 19, 2011, the applicant was requested to submit evidence establishing his qualifying continuous residence in the United States. In response, the applicant submitted copies of his school records from [REDACTED] School District previously submitted into the record. The director noted that the evidence submitted by the applicant was sufficient to establish his presence and residency during the requisite time, but that the evidence is insufficient to establish his continuous residence in the United States since February 13, 2001 and denied the application accordingly.

On appeal, the applicant reasserts his claim and submits the documents listed above. The documents submitted by the applicant with the appeal do not establish that the applicant was continuously residing in the United States from February 13, 2001. While the school records strongly suggest that the applicant may have resided in the United States during 2000-2001 and 2005-2006, they do not demonstrate that he continuously resided in the United States during the requisite period. Also, the documents the applicant submitted on appeal fail to demonstrate the applicant's continuous residence in the United States from February 13, 2001.

Accordingly, the applicant has failed to submit 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 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.

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.