

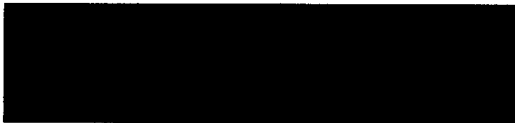


U.S. Citizenship  
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FILE: [REDACTED]  
[EAC 02 271 50873]

Office: VERMONT SERVICE CENTER

Date: JUL 12 2005

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:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Director  
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 denied the application because the applicant failed to establish that he had: 1) entered the United States prior to February 13, 2001; 2) continuously resided in the United States since February 13, 2001; and 3) been continuously physically present in the United States since March 9, 2001.

On appeal, the applicant asserts that because he has no legal documents he is unable to rent an apartment, and therefore, does not have rent or medical receipts as evidence of being present in the United States prior to February 13, 2001. The applicant also asserts that he only has friends and co-workers who can attest to his 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 Attorney General 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 phrase 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 phrase 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. An extension of the TPS designation has been granted with validity until September 9, 2006, 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 Citizenship and Immigration Services (CIS). 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).

In support of the initial application, the applicant provided the following documentation:

1. A letter from Pastor [REDACTED], dated August 14, 2002, in which he states that he has known the applicant since 1999 and that the applicant has regularly attended Sunday Mass at noon and assisted with tasks involved in the weekly Mass; and,
2. An affidavit from [REDACTED] dated August 17, 2002 in which he states that he has known the applicant since 1999, that the applicant came to the United States in September of 1999, and that the applicant has not left the country since.

On August 13, 2003, the applicant was requested to submit evidence establishing his residence since February 13, 2001, and physical presence since March 9, 2001, in the United States as well as his date of entry into the United States. The applicant, in response, provided the following documentation:

3. An affidavit from [REDACTED] dated August 26, 2003 in which he states that he resides in Gainsville, VA and that the applicant has been his neighbor and friend since February of 2001;
4. A letter from Pastor [REDACTED], dated September 9, 2003, in which he states that he has known the applicant since February of 2001 and that the applicant has regularly attended Sunday Mass at noon and assisted with tasks involved in the weekly Mass;
5. Core Source benefits application and insurance card, dated July 1, 2003;
6. Delta Dental enrollment form, dated April 18, 2003;
7. A Virginia state driver's license issued August 4, 2003;
8. A Chevy Chase bank stated for the period ending May 19, 2003;
9. Optimum Choice membership application, dated April 18, 2003; and,
10. Pay stubs from [REDACTED], dated June 21, 2003 and August 2, 2003, respectively.

The director determined that the applicant had failed to submit sufficient evidence to establish his eligibility for TPS and denied the application on October 17, 2003. The director stated that all documents submitted by the applicant in response to the Notice of Intent to Deny were dated after the initial filing date of the application, and therefore, did not address the relevant time period.

On appeal, the applicant reasserts his claim and submits the following documentation:

11. An affidavit from [REDACTED] stating that she has known the applicant since August 9, 2001;
12. An affidavit from [REDACTED], stating that he has known the applicant since January of 2001;
13. An affidavit from [REDACTED] stating that he has known the applicant since May of 2001; and,
14. An affidavit from [REDACTED] stating that he has known the applicant since December of 2001.

The evidence submitted by the applicant in response to the Notice of Intent to Deny is dated after the period in question. The two letters from Pastor [REDACTED] have little evidentiary weight or probative value as they do not provide basic information that is expressly required by 8 C.F.R. § 244.9(a)(2)(i). Specifically, the Pastor does not explain the origin of the information to which he attests, nor does he provide the address where the applicant resided during the period of his involvement with the church. In addition, the two affidavits written by Pastor [REDACTED] are contradictory in that in the letter dated August 14, 2002, the Pastor states that he has known the applicant since 1999, whereas in the letter dated September 9, 2003, the Pastor states that he has known the applicant since February of 2001. The affidavit written by [REDACTED] states that he resides in Gainsville, VA and that he has been a neighbor and friend of the applicant, since February of 2001, who resides in Vienna, VA. However, the affiant fails to explain how he and the applicant can be neighbors when his address is 22 miles in distance from the applicant's residence.

The applicant has not submitted any evidence to establish his qualifying residence or physical presence in the United States before he filed his application on August 23, 2002. The applicant submitted four affidavits on appeal; although the affiants stated that they knew the applicant, they provided no detailed information or supporting documentation to substantiate their claim. The applicant has, thereby, failed to establish that he has met the continuous residence and continuous physical presence criteria described in 8 C.F.R. §§ 244.2(b) and (c). Consequently, the director's decision to deny the application for TPS 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.