

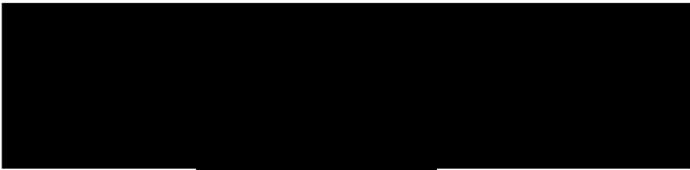


U.S. Citizenship  
and Immigration  
Services

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FILE: [REDACTED]  
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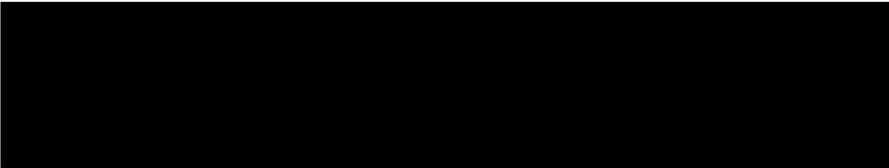
OFFICE: VERMONT SERVICE CENTER

DATE: JAN 24 2007

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:



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.

  
for Robert P. Wiemann, 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 denied the application because the applicant had failed to establish that he had continuously resided in the United States since February 13, 2001, and had been continuously physically present from March 9, 2001, to the date of filing the application.

On appeal, the applicant submits a statement and additional evidence.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an alien who is a national of a foreign state designated by the Attorney General is eligible for temporary protected status 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 Attorney General may designate;
- (d) Is admissible as an immigrant except as provided under § 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.

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.

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.

Persons applying for TPS offered to El Salvadorans must demonstrate that they have continuously resided in the United States since February 13, 2001, and that they have been continuously physically present in the United States since March 9, 2001. On July 9, 2002, the Attorney General announced an extension of the TPS designation until September 9, 2003. Subsequent extensions of the TPS designation have been granted, with the latest extension valid until September 9, 2007, 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).

The record indicates that the applicant filed his TPS application on May 19, 2005, after the initial registration period had closed. The record, however, contains a copy of a marriage certificate indicating that the applicant and [REDACTED] were married on April 11, 1998, in Boston, Massachusetts. Also contained in the record are copies of [REDACTED] Employment Authorization Cards issued on June 22, 2001, on September 10, 2002, and September 10, 2003, under Category A12 (file number [REDACTED]). Therefore, the applicant establishes that he meets the requirements for late initial registration pursuant to 8 C.F.R. § 244.2(f)(2).

In a notice of intent to deny dated November 28, 2005, the applicant was requested to submit evidence to establish continuous residence in the United States since February 13, 2001, and continuous physical presence from March 9, 2001, to the date of filing the application. The applicant failed to respond; therefore, the director denied the application on March 28, 2006.

On appeal, the applicant requests that his TPS application not be denied because he needs employment authorization in order to work and support his family. He states that he is sending more proof that he came to the United States before January 13, 2005, and that he has no more proof for this case. He submits the following:

1. Copies of earnings statements from [REDACTED], Framingham, Massachusetts, dated March 25, 2000; April 27, 2000; and May 4, 2000.
2. Copies of rent receipts dated August 1, 2001 and September 1, 2001.
3. Copies of various receipts dated July 28, 2001; November 23, 2001; January 15, 2002; April 13, 2002; June 12, 2004; and two receipts from "e-z lube" with illegible/incomplete dates.

4. A copy of a Certificate of Attendance for "Repair and Touch Up of Furniture Finishes" Workshop dated May 14, 2003.
5. Copies of a lease agreements dated October 1, 2003 and October 1 2004.
6. A copy of an acceptance letter from the Boston Public School regarding the applicant's son, dated March 20, 2004.

The earnings statements (No. 1 above) are dated prior to the period required to establish continuous residence. Also, the rent receipts (No. 2 above) are generic and have no evidentiary value; no information, such as the address of the property rented and a telephone number were included, nor did the applicant submit supporting evidence, such as a copy of a rental agreement or a notarized affidavit from his landlord.

The applicant has furnished insufficient evidence to establish residence and physical presence as of February 13, 2001 to July 2001; from April 2002 to May 2003; October 2003 to October 2004; and from October 2004 to the date of filing the application on May 19, 2005.

The applicant has failed to establish that he has met the criteria for continuous residence since February 13, 2001, and continuous physical presence since March 9, 2001, as described in 8 C.F.R. § 244.2(b) and (c). Consequently, the director's decision to deny the application will be affirmed.

The record indicates that in removal proceedings held on March 21, 2000, in Boston, Massachusetts, the Immigration Judge denied the application for asylum and application for withholding of removal and granted the applicant voluntary departure until May 22, 2000, with an alternate order of removal to El Salvador. On June 26, 2000, a Warrant of Removal/Deportation, Form I-205 was issued.

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 temporary protected status 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.