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U.S. Department of Homeland Security
Citizenship and Immigration Services

ADMINISTRATIVE APPEALS OFFICE
CIS, AAO, 20 Mass, 3/F
425 I Street, N. W.
Washington, DC 20536



File:

Office: California Service Center Date:

DEC 19 2003

IN RE: Applicant:

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 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.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. § 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of Citizenship and Immigration Services (CIS) where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. *Id.*

Any motion must be filed with the office that originally decided your case along with a fee of \$110 as required under 8 C.F.R. § 103.7.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, California 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 indicated on her application that she entered the United States without a lawful admission or parole in December 2000. The director denied the application for Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254, because the applicant failed to establish she had: 1) continuously resided in the United States since February 13, 2001; and 2) been continuously physically present in the United States since March 9, 2001.

On appeal, the applicant reasserted her claim of eligibility for TPS.

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 temporary protected status 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 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, or
 - (2) registers for TPS during any subsequent extension of such designation, if the applicant meets the above listed requirements and:
 - (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.

The phrase brief, casual, and innocent absence, as defined in 8 C.F.R. § 244.1, means a departure from the United States that satisfies the following criteria:

- (1) Each such absence was of short duration and reasonably calculated to accomplish the purpose(s) for the absence;
- (2) The absence was not the result of an order of deportation, an order of voluntary departure, or an administrative grant of voluntary departure without the institution of deportation proceedings; and
- (3) The purposes for the absence from the United States or actions while outside of the United States were not contrary to law.

Persons applying for TPS offered to El Salvadorans must demonstrate entry on or prior to February 13, 2001, continuous residence in the United States since February 13, 2001, and continuous physical presence 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. A subsequent extension of the TPS designation has been granted by the Secretary of Homeland Security, with validity until March 9, 2005, 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 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).

On October 10, 2002, the applicant was provided the opportunity to submit evidence establishing her residence since February 13, 2001, and physical presence since March 9, 2001, in the United States. The applicant was also requested to submit two photographs and evidence of her Salvadoran citizenship. The applicant, in response, provided the following documentation:

1. A copy of her Salvadoran birth certificate;
2. An English translation of her Salvadoran birth certificate;
3. A copy of her Salvadoran personal identification card;
4. A copy of a hand-written receipt dated January 13, 2001, for cosmetics;
5. A certificate dated May 28, 2001, recognizing the applicant's participation in a "childbirth education course"; and,
6. A copy of a hand-written receipt dated December 12, 2001.

The applicant subsequently filed an application for re-registration and submitted the following documentation:

7. A copy of an undated advertising flier reflecting a Hemet, California, address for the applicant;
8. A copy of an envelope bearing a May 2, 2000, post-mark and reflecting a Hemet, California, address for the applicant; and,
9. A copy of an envelope post-marked on February 27, 2002, reflecting a Hemet, California, address for the applicant.

The director determined that the applicant had failed to submit sufficient evidence to establish her continuous physical presence in the United States since March 9, 2001, and denied the application on February 25, 2003. On appeal, the applicant reasserted her claim and submitted the following documentation:

10. A "pregnancy verification" letter from the Hemet Family Care Center dated February 20, 2002;
11. Copies of several documents dated March 11, 2002, April 11, 2002, relating to her child's coverage under Medi-Cal;
12. A copy of an envelope post-marked on May 2, 2002, reflecting a Hemet, California, address for the applicant;
13. A copy of a WIC referral sheet dated June 4, 2002;
14. A copy of an apartment rental agreement dated July 1, 2002;
15. A copy of an admission agreement from Valley Health System dated August 8, 2002;
16. A copy of a letter from Inland Empire Health Plan dated December 4, 2002, reflecting a Hemet, California, address

- for the applicant; and,
17. Copies of pay-stubs from Carl Karcher Enterprises, Inc., dated December 7, 2002, January 18, 2003, and February 15, 2003, reflecting a Hemet, California, address for the applicant.

The applicant has submitted just four documents (Nos. 4, 5, 6 and 8 above) to corroborate her claim of qualifying residence and physical presence in the United States before 2002. The documents detailed in Nos. 4, 5 and 6 above are from unknown sources and do not directly reference the applicant's claimed residence or presence in the United States. Moreover, these documents do not constitute "proof of residence" as specified in 8 C.F.R. § 244.9(a)(2).

Regulations specifically identify "correspondence between the applicant and other persons" as an acceptable proof of residence. 8 C.F.R. § 244.9(a)(2)(vi)(E). However, the sufficiency of all evidence will be judged according to its consistency, credibility, and probative value. 8 C.F.R. § 244.9(b). The credibility and probative value of the photocopied envelope detailed in No. 8 above is highly suspect since this document appears to be an altered copy of the envelope detailed in No. 12 above. The handwritten addresses, the placement of the post-marks and the bar code printed by the U.S. Postal Service on these envelopes are identical. The only discernable difference between the copies is the year in the post-mark.

Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth, in fact, lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988).

The applicant has failed to establish her entry on or prior to February 13, 2001, continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States since March 9, 2001. 8 C.F.R. § 244.2(b) and (c). Consequently, the director's decision to deny the application for temporary protected status will be affirmed.

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.