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U.S. Department of Homeland Security

Citizenship and Immigration Services

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ADMINISTRATIVE APPEALS OFFICE  
CIS, AAO, 20 MASS, 3/F  
425 I STREET, N.W.  
Washington, D.C. 20536

File: [REDACTED] Office: Vermont Service Center

Date: DEC 31 2003

IN RE: Applicant: [REDACTED]

Application: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

IN 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 Citizen 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*  
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 indicated on her application that she entered the United States without a lawful admission or parole in August 2000. [In a subsequent application, it is noted that the applicant indicated entry into the United States in January 2001.] 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: 1) had continuously resided in the United States February 13, 2001; and 2) had been continuously physically present in the United States since March 9, 2001. The director, therefore, denied the application.

On appeal, the applicant asserts that she had replied to the request for additional information and that she has been residing in the United States since February 13, 2001. The applicant resubmitted documents previously provided to CIS. The applicant also provided additional documentation.

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 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 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:

- (3) (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 physically present, as used 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 used 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 entry on or prior to February 13, 2001, 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, (now the Secretary,) announced an extension of the TPS designation until September 9, 2003. A subsequent extension of the TPS designation has been granted by the Secretary 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 September 4, 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 a photo identity document. The applicant, in response, provided proof of her identity. The applicant also furnished photocopies of a bill, a Western Union receipt, a check, other receipts, and two statements. The bill, which reflects a money order purchase, is dated September 30, 2000. The other receipts are dated February 2, 2002, February 12, 2002, February 16, 2002 and July 20, 2002. Therefore, these documents offer no evidence of the applicant's continued residence and physical presence in the United States since February 13, 2001.

The Western Union Receipt is dated February 10, 2001. However, the receipt appears to have been altered and its credibility is therefore suspect. The statements are from [REDACTED] and [REDACTED]. Mr. [REDACTED] claims that he has known the applicant since November 2000 and Mr. [REDACTED] states that he has known the applicant since August 2000. However, neither statement is sworn to and neither individual offers any evidence of the applicant's residence or physical presence in the United States since February 13, 2001 and March 9, 2001, respectively. Consequently, the statements are of little or no probative value.

On appeal, the applicant resubmitted evidence previously presented. The applicant also provided: photocopies of various identification cards; a letter from the Commonwealth of Virginia Department of Professional and Occupational Regulation; additional Western Union receipts; and pay statements. The applicant also submitted: copies of her employment authorization card, issued December 27, 2001; a State of Maryland identification card, issued January 31, 2002; and, a State of Maryland accreditation card issued October 5, 2001. The applicant submitted a copy of her social security card, which is undated. The letter from the Department of Professional and Occupational Regulation is dated February 1, 2002. The pay stubs are dated from February 22, 2002 to December 27, 2002. Consequently, these documents fail to show that the applicant was residing in the United States as of February 13, 2001 or that she has maintained continuous physical presence in the United States since March 9, 2001.

None of the Western Union receipts are completely or adequately filled out. Furthermore, at least one of the originally submitted Western Union receipt was altered. As a result, these receipts are of little or no probative value. Consequently, 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 lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988).

Subsequent to filing her appeal, the applicant provided additional documentation and also resubmitted documents previously submitted to CIS. Included with the new documents was a license from the Washington, D.C. Department of Consumer and Regulatory Affairs, issued February 27, 2002, as well as a certificate and an identification card issued on July 21, 2002 and October 5, 2001, respectively, from Aerosol Monitoring & Analysis, Inc., located at 1331 Ashton Road Hanover, MD 21076. These documents also fail to establish the applicant's residence and physical presence since February 13, 2001 and March 9, 2001.

The applicant has not submitted any evidence to establish that she has met the criteria for residence and physical presence described in 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.