



U.S. Citizenship
and Immigration
Services

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FILE: [Redacted] Office: NEBRASKA SERVICE CENTER Date: 3/16/04

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.

for 
Robert P. Wiemann, Director
Administrative Appeals Office

**Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy**

DISCUSSION: The application was denied by the Director, Nebraska Service Center. A motion to reopen, filed by the applicant, was granted by the director and he again denied the application. The applicant appealed the director's decision on the motion, 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 she: 1) had continuously resided in the United States since 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 states that she is submitting additional evidence.

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 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:
 - (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 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 the Department 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).

The applicant filed her TPS application on July 1, 2002. On September 11, 2002, the applicant was provided the opportunity to submit evidence establishing her continuous residence since February 13, 2001, and her continuous physical presence since March 9, 2001, in the United States. The applicant, in response, provided:

1. Copies of Earning Statements from WJ Enterprises, Inc. dated November 6, 2000, December 20, 2000, September 20, 2000, and December 5, 2000.
2. A copy of a pay stub from [REDACTED] dated December 10, 2001.
3. Copies of pay statements from [REDACTED], for pay periods ending February 4, 2001 and February 11, 2001.
4. A copy of the applicant's State of Washington identification card.
5. Copies of the applicant's Honduran identification card [REDACTED] with issue dates of February 12, 1998, April 27, 1998, July 2, 1999, and March 16, 2000.
6. A copy of a pay stub from [REDACTED], for the pay period ending January 7, 2001.
7. A copy of a Dolex Dollar Express money transfer receipt dated June 24, 2001.

8. A copy of a Social Security Administration Retirement, Survivors, and Disability Insurance Request for Employee Information.

The WJ Enterprises, Inc., earning statements appear to be altered. The applicant's name is in a typeface that is significantly different from the rest of the document. 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 director determined that the evidence submitted was insufficient to establish the applicant's eligibility for TPS. Therefore, the director denied the application.

On appeal, the applicant states that she is providing additional evidence. Specifically, the applicant presents:

9. Two letters from [REDACTED] dated March 4, 2001 and May 7, 2001.
10. A copy of a bank statement from [REDACTED] for period ending July 18, 2001.
11. A copy of a pay stub from an unidentified employer dated July 10, 2001.

The evidence contained in the record, including evidence furnished on appeal, appears to establish the applicant's presence in the United States since February 13, 2001. However, the applicant has failed to furnish any evidence showing her continuous physical presence in the United States from November 2001 to the date of filing the application.

The applicant has failed to establish that she has met the criteria for physical presence described in 8 C.F.R. § 244.2(b). 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.