

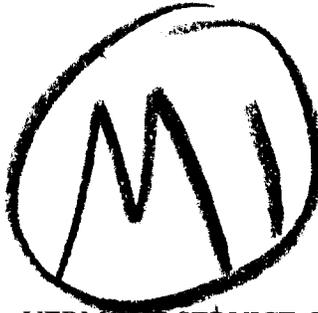
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U.S. Department of Homeland Security  
20 Mass. Ave., N.W., Rm. A3042  
Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

**PUBLIC COPY**



DEC 14 2011

FILE:

Office: VERMONT SERVICE CENTER

Date:

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 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 continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States since March 9, 2001.

On appeal, the applicant submits 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 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 § 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.
- (g) Has filed an application for late registration with the appropriate Service director, within a 60-day period immediately following the expiration or termination of conditions described in paragraph (f)(2) of this section.

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 continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States since March 9, 2001. 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 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).

On April 28, 2003, the applicant was requested to submit evidence establishing her continuous residence in the United States since February 13, 2001, and her continuous physical presence in the United States since March 9, 2001. The applicant, in response, provided two ADP pay statements from Injectron Corporation, address not listed, for the pay periods ending April 22, 2001 and April 29, 2001, respectively.

The director determined that the applicant had failed to submit sufficient evidence to establish her qualifying continuous residence and physical presence in the United States and denied the application on September 3, 2003.

On appeal, the applicant submits the following evidence in an attempt to establish her qualifying continuous residence and physical presence in the United States:

1. a Mother/Infant Education Record dated October 1, 2003, from the Muhlenberg Regional Medical Center;
2. 35 pay statements from American Building Maintenance Company in New York, New York, for the period from April 20, 2001 to April 19, 2002, with the employee identified only by Social Security Number [REDACTED];
3. two invoices from Laboratory Corporation of America dated April 23, 2002 and July 11, 2002;
4. a notice dated January 16, 2003, from the Director of the Division of Unemployment Insurance, New Jersey Department of Labor, State of New Jersey, indicating that [REDACTED] Social Security number [REDACTED] was disqualified from receiving New Jersey unemployment benefits as of September 8, 2002, because she left voluntarily left her job with Injectron Corp. on September 13, 2002;
5. a notice dated June 14, 2002, from the Plainfield Health Center in Plainfield, New Jersey, informing that the applicant that she missed her medical appointment scheduled on May 21, 2002;
6. a consent form for HIV testing signed by the applicant on April 23, 2002;
7. Western Union money transfer receipts indicting the applicant transferred money to El Salvador on the following dates: May 20, 2001; June 14, 2001; February 12, 2002; March 16, 2002; March 25, 2002; April 14, 2002; June 3, 2002; April 28, 2003; and June 28, 2003;
8. Moneygram money transfer receipts indicating that the applicant transferred money to El Salvador on May 8, 2003, July 5, 2003, and July 26, 2003;
9. [REDACTED] money transfer receipt indicating the applicant transferred money to El Salvador on February 23, 2002;

10. ADP pay statements from [REDACTED] address not listed, for the period from April 22, 2001 to August 25, 2002; and,
11. a birth certificate indicating that [REDACTED] was born in Plainfield, New Jersey, on October 1, 2002, to [REDACTED]

The applicant has submitted evidence in an attempt to establish continuous residence and continuous physical presence in the United States during the period from February 13, 2001 to May 20, 2001; however, she has not provided sufficient evidence to establish her residence or physical presence in the United States prior to that date. Additionally, the applicant's name does not appear on the pay statements from American Building [REDACTED] although the Social Security number on these pay statements, [REDACTED] also appears on the Injectron Corp pay statements issued during the period from April 22, 2001 to February 10, 2002. The pay statements issued by Injectron Corp. after May 12, 2002, show the applicant's Social Security number as [REDACTED]. It is noted that the applicant did not list a Social Security number on the Form I-821, Application for Temporary Protected Status. The applicant has not submitted any documents from either purported employer to corroborate her claim to have worked for both companies at the same time. Further, she has not provided any explanation for the fact that she was purportedly working under two different social security numbers at the same time. 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 visa petition. Further, it is incumbent on 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. (Comm. 1988).

The applicant has not provided sufficient evidence to establish her qualifying continuous residence and physical presence in the United States during the period from February 13, 2001 to May 20, 2001. Additionally, there are unexplained discrepancies in the applicant's pay statements. It is determined that the documentation submitted by the applicant is not sufficient to establish that she satisfies the continuous residence and physical presence requirements 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.