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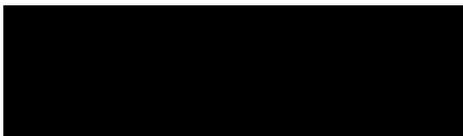
U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. A3042 N.W.
Washington, DC 20529

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**U.S. Citizenship
and Immigration
Services**

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FILE: [REDACTED] Office: NEBRASKA SERVICE CENTER Date: DEC 15 2004

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.

Cindy N. Gomez
Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Nebraska Service Center. The appeal was dismissed by the Director, Administrative Appeals Office (AAO). A motion to reopen, filed by the applicant, was dismissed by the AAO director, and he again denied the application. The applicant is again filing a motion. This motion also 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 had continuously resided in the United States since February 13, 2001. The director, therefore, denied the application.

On appeal, the applicant submits new evidence in an attempt to establish her continuous residence and continuous physical presence in the United States during the qualifying period. According to the applicant, she does not have much proof that she has been in the United States.

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 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 February 22, 2002, the applicant was provided the opportunity to submit evidence establishing her date of entry and continuous residence in the United States since February 13, 2001, and her continuous physical presence in the United States from March 9, 2001 to the filing date of the application. The applicant, in response, provided a letter from [REDACTED] a copy of her birth certificate, without English translation, a copy of her El Salvadoran identity card, and two receipts.

In her letter, [REDACTED] states that the applicant worked for her as a babysitter since January 2001. However, the letter has little evidentiary weight or probative value as it does not provide basic information that is expressly required by 8 C.F.R. § 244.9(a)(2)(i). Specifically, the affiant does not provide the address where the applicant resided during the period of his employment. Furthermore, [REDACTED] statement is not supported by any corroborative evidence. Affidavits are not, by themselves, persuasive evidence of residence or physical presence.

One of the two receipts provided by the applicant is undated and handwritten. It appears to represent rent payments from February 2001 to December 2001; however, it also is not supported by any corroborative evidence. Moreover, the receipt does not indicate when in February the tenancy began, which may have started subsequent to the qualifying date to establish the applicant's date of entry and continuous residence. The other receipt is a money transfer receipt dated March 18, 2001. While 8 C.F.R. § 244.9(a)(2)(vi) specifically states that additional documents such as money order receipts "may" be accepted in support of the applicant's claim, the regulations do not suggest that such evidence alone is necessarily sufficient to establish the applicant's qualifying residence or physical presence in the United States. The applicant claims to have

lived in the United States since December 5, 2000. It is reasonable to expect that the applicant would have some other type of contemporaneous evidence to support this receipt; however, no such evidence has been provided. The director, therefore, denied the application.

On appeal, the applicant provided a copy of a "rental agreement" in an effort to establish her continuous residence and continuous physical presence in the United States during the qualifying period. The rental agreement indicates the applicant was a tenant from January 1, 2001 to December 31, 2001. The director of the AAO found the evidence insufficient and concurred with the Service Center director's decision.

The applicant requested a motion to reopen her case, which was not granted by the AAO director. With her motion the applicant submitted a statement from [REDACTED]. According to [REDACTED] he has known the applicant since December 2000 and met her through her boyfriend. However, [REDACTED] has not demonstrated that his knowledge of the applicant's entry into the United States is independent of his personal relationship with the applicant. If this knowledge is based primarily on what the applicant told him about her entry into the United States, then his statement is essentially an extension of the applicant's personal testimony rather than independent corroboration of that testimony. Without corroborative evidence, affidavits do not substantiate clear and convincing evidence of the applicant's residence in the United States.

The applicant also submitted another copy of the rental agreement, which had been notarized subsequent to the applicant's initial submission of the document. The statement on motion has the notarization language added to the bottom of a copy of the original document. However, contrary to the claim by the notary, only the original signature appears on the document. There is nothing to indicate that the landlord signed his signature in her presence. Thus, the statement is of no probative value. The AAO director, therefore, denied the motion.

On this second motion, the applicant states that she does not have much proof that she has been in the United States because she has been living with someone and all bills are under his name. The applicant provides a copy of a receipt from M&M Auto Sales and Repair dated February 9, 2001. Even if one accepts this receipt as genuine, it only indicates the applicant's presence in the United States on that date. It fails to establish the applicant's continuous residence since February 13, 2001, and her continuous physical presence in the United States from March 9, 2001 to the filing of the application. Further, the applicant should have presented all evidence at the time she filed the initial application. The Board of Immigration Appeals, in *Matter of Soriano*, 19 I&N Dec. 764 (BIA1988), held that where the applicant was put on notice of the required evidence and given a reasonable opportunity to provide it for the record before the application is adjudicated, evidence submitted on appeal will not be considered for any purpose, and the appeal will be adjudicated based on the record of proceedings before the Service.

The applicant has not submitted any evidence to establish that she has met the criteria for residence described in 8 C.F.R. § 244.2(c). Consequently, the motion to reopen is dismissed, and the previous decision of the AAO director is 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 motion to reopen is dismissed.