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U.S. Citizenship  
and Immigration  
Services

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FILE: [Redacted] Office: Texas Service Center Date: DEC 15 2004

IN RE: Applicant: [Redacted]

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

ON BEHALF OF PETITIONER: 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, Texas 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 determined that 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. The director, therefore, denied the application.

On appeal, the applicant asserts that she entered the United States in March 1999 and has resided in this country ever since. According to the applicant, the person who assisted her in filing her application failed to ask her for proof to establish her continuous residence and physical presence. The applicant provides additional evidence in an attempt to establish her continuous residence and physical presence 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 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 January 8, 2003, 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 evidence of all of her legal name changes, if any. In response, the applicant submitted a photocopy of her passport and other evidence in an attempt to establish her continuous residence and physical presence in the United States during the qualifying period. The director determined that the applicant did not meet her burden of proof and denied the application.

On appeal, the applicant provides documentation in an attempt to establish her continuous residence and physical presence in the United States. Specifically, the applicant submits the following documentation:

1. A copy of a State of North Carolina Registration Card, dated January 7, 2000.
2. A copy of a State of North Carolina Identification Card issued on December 23, 1999.
3. A copy of a Western Union receipt dated December 13, 1999.
4. A copy of a Retail Installment Contract and Security Agreement dated December 3, 1999.
5. Photocopies of a Wayne Community College grade notification dated August 3, 1999.
6. Statements from the applicant's parents indicating she had lived with them from March 1999 until July 21, 2002.
7. A statement from [REDACTED] in which the affiant states that she incorrectly listed the applicant's first name as [REDACTED] instead of [REDACTED] in translating her birth certificate.

The record also contains other evidence, including the applicant's marriage license, dated January 16, 2003, another Wayne Community College grade report dated July 30, 1999, and a state of North Carolina Driver License, issued November 8, 2001. These documents, in combination with the previously listed evidence, establish that the applicant was present in the United States prior to February 13, 2001 and from November 8, 2001. However, the only evidence that the applicant maintained continuous residence from February 13, 2001 and continuous physical presence from March 9, 2001 to the filing of the application on July 18, 2001, is the statement from the applicant's parents. That statement is not supported by any corroborative evidence. Affidavits are not, by themselves, persuasive evidence of residence or physical presence. The applicant has, therefore, failed to establish that she has met the continuous residence and continuous 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.