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



**FILE:** [Redacted] **Office:** NEBRASKA SERVICE CENTER **Date:** JUL 06 2004

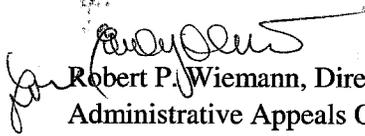
**IN RE:** Applicant: [Redacted]

**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.

  
Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, Nebraska 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 submit sufficient evidence to establish that she had entered the United States before February 13, 2001, that she had continuously resided in the United States since February 13, 2001, and that she had been physically present in the United States since March 9, 2001. The director, therefore, denied the application.

On appeal, the applicant fails to make a statement addressing the grounds of denial. She submits additional evidence in support of her claim of eligibility for TPS.

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.

- (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 condition described in paragraph (f)(2) of this section.

The term *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 term *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.

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).

The record reflects that the applicant submitted her application for TPS on September 6, 2002. She stated on the TPS application that she entered the United States on November 7, 2000. In support of her application, the applicant submitted the following evidence:

- 1.) an August 20, 2002 affidavit from [REDACTED] who stated he employed the applicant at Don Pico's Mexican Restaurant, from November 10, 2000 to January 15, 2001; and,

- 2.) an August 20, 2002 affidavit from [REDACTED] who stated the applicant has been an active member of the church since November 2000.

On January 18, 2003, the applicant was requested to submit: (1) a photo identification document; (2) evidence to establish that she had entered the United States prior to February 13, 2001; (3) evidence to establish that she had continuously resided in the United States since February 13, 2001; and (4) evidence to establish that she had been physically present in the United States since March 9, 2001. In response, the applicant submitted copies of the same affidavits listed in Item Nos. 1-2, above. The applicant also submitted a copy of her Salvadoran identity card, No. [REDACTED] issued in San Salvador on June 27, 2000, and a copy of an identification card, issued by the Instituto Salvadoreño del Seguro Social, in San Salvador on June 14, 1999.

On August 9, 2003, the director concluded that the applicant had failed to submit evidence to establish her date of entry into the United States, and that she had not established that she had met the continuous residence and continuous physical presence criteria for TPS.

On appeal, the applicant submits copies of her birth certificate, identification documents, and the same affidavits listed in Item Nos. 1-2 above. In addition, the applicant submits the following new evidence:

- 3.) a form in the Spanish language, entitled "Acuerdos, Autorizaciones y Asignaciones Irrevocables" from the Faculty of Medicine, University of Texas, Galveston, Texas, signed by the applicant on April 19, 2001;
- 4.) an Application/Review/Expiration/Appointment Notice, from the Maternal Child Health Center, Dickinson, Texas, signed by the applicant on May 14, 2001;
- 5.) a Medicaid identification card in the applicant's name, issued on June 9, 2001;
- 6.) a card and a nursery discharge summary statement, reflecting that the applicant's child, Alviergue, Baby Boy, was born at The University of Texas Medical Branch Hospitals, Galveston, Texas, on May 25, 2001;
- 7.) rent receipts, issued by the Bay Meadows Apartments, Friendswood, Texas, on May 11, 2001, June 1, 2001, and November 3, 2001; and
- 8.) a Lease Contract Renewal form from Bay Meadows Apartments, executed on December 1, 2001, for the period from December 1, 2001 through May 30, 2002.

The affidavit from [REDACTED] "Cristo de Poder" 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)(v). Specifically, the pastor did not explain the origin of the information to which he attests, nor did he provide the address where the applicant resided during the period of her involvement with the church. It is further noted that the pastor did not indicate the location of his church, or verify that the church was even located inside the United States. Likewise, the employment affidavit from Camilo Abrego, former owner of [REDACTED] Mexican Restaurant, has little evidentiary weight or probative value as it, too, does not provide basic information that is expressly required by 8 C.F.R. § 244.9(a)(2)(i). [REDACTED] also failed to provide the address where the applicant resided during the period of her employment, and the affiant did not indicate the location of his restaurant, or verify that the business was even located inside the United States. Moreover, affidavits are not, by themselves, persuasive evidence of residence or physical presence.

The applicant claims to have lived in the United States since November 7, 2000. It is reasonable to expect that she would have contemporaneous evidence to support her claim. However, she has only provided

evidence that her child was born in Galveston, Texas, on May 25, 2001, that she had applied for and/or received medical care on April 19, 2001, May 14, 2001, and that she had been issued a Medicaid identification card on June 9, 2001. While the applicant's name is shown on the lease contract renewal, for the period from December 1, 2001 through May 30, 2002, the contract does not indicate when the initial lease contract began. The three rent receipts for May 11, 2001, June 1, 2001, and November 3, 2001, are not sufficient to establish the applicant's qualifying continuous residence in the United States from February 11, 2001, and her physical presence in the United States since March 9, 2001, to the date of filing the application.

The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. 8 C.F.R. § 244.9(b). 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.

The burden of proof is upon the applicant to establish 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.