



U.S. Citizenship  
and Immigration  
Services

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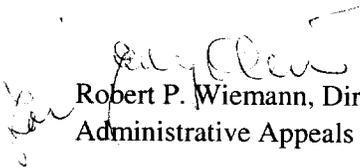
FILE: [REDACTED] Office: VERMONT SERVICE CENTER Date: JUL 21 2004  
IN RE: Applicant: [REDACTED]

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

JUL 21 2004

U.S. DEPARTMENT OF HOMELAND SECURITY  
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**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 determined that the applicant had failed to submit sufficient evidence to establish her continuous residence in the United States since February 13, 2001. The director, therefore, denied the application.

On appeal, the applicant states that she believed she had previously submitted sufficient proof of her continuous residence in the United States. The applicant states she will try to submit additional proof if her case is reopened. To date, the applicant has not submitted any additional evidence; therefore, the record must be considered complete.

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 January 22, 2002. In support of her application, the applicant submitted the following evidence:

- 1.) a December 5, 2001 affidavit from [REDACTED] who stated he had known the applicant for four years, and that she lived at [REDACTED] Alexandria, Virginia; and,
- 2.) a copy of a pay statement, representing wages paid to the applicant by Alexandria/Glebe Road LP, under Social Security Number [REDACTED] for the pay period ending January 10, 2002.

On February 13, 2003, the applicant was requested to submit evidence to establish that she had continuously resided in the United States since February 13, 2001. In response, the applicant submitted the following evidence:

- 3.) a March 6, 2003 affidavit from [REDACTED] the applicant's friend, residing at [REDACTED] Alexandria, Virginia, who stated she met the applicant in March 2001 when the applicant came to live with her in her apartment, and that the applicant later moved to another apartment, but they have kept in touch;
- 4.) an envelope from Urgent Express, with no visible postmark, addressed to the applicant [REDACTED] Alexandria, Virginia; and,
- 5.) copies of pay statements, representing wages paid to the applicant by Alexandria/Glebe Road LP, under Social Security Number [REDACTED] for the pay periods ending November 22, 2001, December 6, 2001, and December 20, 2001.

On April 28, 2003, the director concluded that the applicant had failed to establish her qualifying continuous residence in the United States during the requisite period and denied the application.

On appeal, the applicant reiterates her claim to eligibility for TPS. She states she will try to provide additional evidence of her residence in the United States; however, she has failed to do so.

The applicant has failed to provide sufficient evidence to establish her claim to eligibility for TPS. Mr. [REDACTED] states in his December 5, 2001 affidavit that he has known the applicant for four years. He stated that she lived at [REDACTED] Alexandria, Virginia; however, he did not state where he met the applicant or how often he saw her during the four-year period. It is noted that the applicant's address on the undated Urgent Express envelope is the same as that provided by [REDACTED] however, since the applicant claimed on the TPS application that she did not come to the United States until January 5, 2001, [REDACTED] statement, at best, can only support the applicant's claim of residence in the United States to March 2001, the date the applicant's friend, [REDACTED], stated she met the applicant. Affidavits are not, by themselves, persuasive evidence of residence or presence. The applicant claims to have continuously resided in the United States since January 2001. It is reasonable to expect that the applicant would have some type of contemporaneous evidence to support this assertion; however, she has only provided the four pay statements, described in Items Nos. 2 and 5, above. The pay statements reflect wages paid to the applicant under Social Security Number [REDACTED] however, the applicant stated on her initial TPS application, submitted on January 22, 2002, and a subsequent TPS application that she did not have a Social Security number. It is noted that the applicant stated her Social Security Number as [REDACTED] on the third TPS application, and a Form I-765, Application for Employment Authorization, she submitted on September 9, 2002.

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 lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988). The applicant has failed to submit any objective evidence to explain or justify the inconsistencies regarding her Social Security number. Therefore, the reliability of the remaining evidence offered by the applicant is suspect and it must be concluded that the applicant has failed to establish that she has met the 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.