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U.S. Citizenship
and Immigration
Services

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MAY 27 2004

FILE: [REDACTED] Office: NEBRASKA SERVICE CENTER Date:
[LIN 02 256 51044]

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. The matter 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 after determining that the applicant had failed to provide conclusive evidence that she had met the requirements of the registration period for date of entry prior to February 13, 2001, continuous residence in the United States since February 13, 2001, and physical presence in the United States since March 9, 2001.

On appeal, the applicant claims that she came to the United States on December 30, 2000. She states that she has little proof to submit because she did not work, and the apartment she lived in was not in her name. The applicant submits additional evidence. She states that she will submit a brief or additional evidence by April 26, 2003. To date, no additional evidence has been received. Therefore, the record will be considered complete.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an alien who is a national of a foreign state 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 the director. 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 22, 2003, the applicant was provided the opportunity to submit evidence to establish that she met the requirements of the registration period. In response, the applicant submitted rent receipts dated February 2, 2000 and May 1, 2000; documentation dated June 26, 2002 and June 28, 2002, relating to a rental agreement; a medical receipt dated January 30, 2001; a July 15, 2002 paycheck from the Carmel Companies, Inc.; a September 6, 2002 utility bill; and a bill from Cricket Wireless that shows only the month and day it was issued, but not the year it was issued. The director determined that the applicant had failed to provide conclusive evidence that she had met the date of entry, continuous residence, and physical presence criteria for TPS. On March 4, 2003, the director denied the application.

On appeal, the applicant claims she came to the United States on December 30, 2000. She states she has little evidence to support her claim because she initially did not work, and she did not rent an apartment in her own name.

The applicant provides a copy of a January 30, 2001 medical receipt which she had previously submitted, as well as the following new evidence:

- (1) a Medically Advised Absence statement from Robert C. Springs, M.D., stating that a Carmen Carbajal was under his care during the period January 13, 2001, to February 17, 2001;
- (2) a January 8, 2001 money transfer receipt in the name Carmen Carbajal; and,
- (3) a copy of an earnings statement indicating that a Carmen Carbajal was employed at Taco Bell during the pay period ending January 7, 2001.

The applicant has not submitted any persuasive evidence to support her claim of eligibility for TPS. The applicant submitted documentation in the name Carmen Carbaja. However, she stated on the TPS application that she was not known by any other name. The applicant's birth certificate is not a part of the record of proceeding, therefore, it is not known if the name Carmen is part of her name.

The applicant states on appeal that she initially did not work when she came to the United States; yet, she submits a copy of a January 14, 2001, paycheck, issued by Taco Bell, Denver, Colorado, to a Carmen Carbajal. The paycheck does not show the date when the pay period began; however, it indicates that the pay period ended on January 7, 2001. The paycheck reflects year-to-date earnings in the amount of \$15,761; including year-to-date overtime earnings in the amount of \$292; and year-to-date earned vacation pay in the amount of \$292. The applicant stated on the application for TPS that she entered the United States in December 2000. On appeal, the applicant specifically stated her entry date as December 30, 2000. Therefore, it is unlikely that the applicant would have earned \$15,761 at Taco Bell from December 30, 2000 to January 7, 2001. In addition, the applicant stated on the TPS application, filed on August 8, 2002, that she did not have a Social Security number. However, the Taco Bell paycheck shows a Social Security number for a Carmen Carbajal.

The applicant states on appeal that the apartment where she lived when she first came to the United States was not in her name. She submits receipts, issued to a Carmen Carbajal, dated February 2, 2000, and May 1, 2000, for rental of the premises at 11605 Bellaire Street, #309. Both receipts are dated prior to the applicant's claimed entry date into the United States, and both have been visibly altered. Hand-written entries on pre-printed receipt forms, particularly when, as in this case, they contradict other information submitted by the applicant, are not persuasive evidence. As a result, the receipts are not very compelling or convincing, and are of little or no probative value.

The documentation submitted does not present clear evidence to establish that the applicant entered the United States prior to February 13, 2001, and that she has continuously resided in the United States since February 13, 2001, and been physically present in the United States since March 9, 2001. Without more persuasive evidence as to the applicant's date of entry into the United States, it cannot be concluded that she has met the continuous residence and physical presence criteria for TPS.

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, in fact, 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 discrepancies in the evidence submitted. Therefore, the reliability of the remaining evidence offered by the applicant is suspect.

The applicant has not submitted sufficient evidence to establish that she has met the criteria 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.