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U.S. Citizenship  
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Services

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[Redacted]

FILE: [Redacted] Office: Nebraska Service Center Date: SEP 13 2002

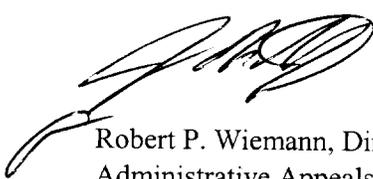
IN RE: Applicant: [Redacted]

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

ON BEHALF OF APPLICANT:  
[Redacted]

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 denied the application because 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.

On appeal, the applicant asserted her claim of eligibility for TPS and submitted evidence in support of her claim.

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 is eligible for temporary protected status only if such alien establishes that he or she:

- (a) Is a national of a 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 Temporary Protected Status 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 phrase 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.

The phrase 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 phrase brief, casual, and innocent absence, as defined in 8 C.F.R. § 244.1, means a departure from the United States that satisfies the following criteria:

- (1) Each such absence was of short duration and reasonably calculated to accomplish the purpose(s) for the absence;
- (2) The absence was not the result of an order of deportation, an order of voluntary departure, or an administrative grant of voluntary departure without the institution of deportation proceedings; and
- (3) The purposes for the absence from the United States or actions while outside of the United States were not contrary to law.

Persons applying for TPS offered to El Salvadorans must demonstrate entry on or prior to February 13, 2001, continuous residence in the United States since February 13, 2001, and continuous physical presence 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).

Along with her application for TPS, the applicant submitted the following documentation:

1. Copies of her Salvadoran birth certificate along with an English translation.
2. A copy of a letter from [REDACTED] pastor of Our Lady of Guadalupe Church in Omaha, Nebraska, who stated that the applicant had been living in Omaha since February 10, 2000, and she had been a parishioner since August 31, 2002.
3. A copy of a note dated September 3, 2002 from [REDACTED], who stated that [REDACTED] had been seen at the South Omaha Medical Association since September 22, 2000.

On January 21, 2003, the applicant was requested 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 a photo identity document. The applicant, in response, provided the following documentation:

4. A letter dated February 11, 2003, from [REDACTED] mother of the applicant, who stated that the applicant lives with her and that she pays all of her daughter's expenses.
5. Copies of [REDACTED] employment authorization card, Nebraska identification card, and social security card.
6. A letter dated February 10, 2003, from [REDACTED] Pastor of the Saint Joseph Catholic Church, who stated that the applicant had been registered with the church since January 20, 2001.
7. A letter dated February 10, 2003, from [REDACTED] Director of the Adult Basic Education at the Metropolitan Community College in Omaha, Nebraska, who stated that the applicant had attended English classes at the Chicano Awareness Center from July 2001 to July 2002.

The director determined that the applicant had failed to submit sufficient evidence to establish her eligibility for TPS and denied the application on March 10, 2003. On appeal, the applicant reasserted her claim and submitted the following documentation:

8. Copies of envelopes, without legible postmark dates, addressed to the applicant from the Consulate General of El Salvador in Chicago, Illinois.
9. A copy of a letter dated November 12, 2002 from the General Consulate of El Salvador in Chicago, Illinois.
10. Copies of her health records indicating immunizations given on September 26, 2002, along with a copy of the receipt for the services rendered by the Douglas County Health Department.
11. Copies of cash register receipts dated December 8, 2002 and March 6, 2003 for purchases.
12. A copy of a money transfer receipt dated August 26, 2001, indicating funds transferred from [REDACTED] in the United States to the applicant in El Salvador.
13. A copy of the applicant's high school identification card for the school year 2002-2003.
14. A copy of the applicant's Salvadoran passport issued on December 9, 2002 in Chicago, Illinois.
15. A copy of the applicant's fingerprint receipt notice dated October 17, 2002.
16. A copies of her receipt notices dated October 17, 2002 and November 13, 2002 for her Applications for Employment Authorization.
17. A copy of her fingerprint notice dated October 18, 2002.
18. A copy of a hand-written receipt dated June 10, 2002, from the Consulate General in Chicago, Illinois for her passport.
19. Copies of various letters from advertisers mailed to the applicant in the United States reflecting dates of January 19 and 27, 2003.

20. A copy of a letter dated March 14, 2003, from [REDACTED] Principal of South High School in Omaha, Nebraska, who indicated the applicant's attendance since September 30, 2002.
21. A copy of a letter dated November 14, 2002, from the Nebraska Methodist College.
22. A copy of a note from the South Omaha Medical Associates indicating that the applicant was seen on August 26, 2002.
23. Copies of her report card from South High School for the period of August 19, 2002 to October 23, 2002.
24. A letter dated March 24, 2003, from her mother, [REDACTED] who stated that the applicant was with her since about February 25, 2000, after which the applicant's father took care of her for six months in Ft. Lauderdale, Florida.
25. A copy of an undated letter, from [REDACTED] Pastor of the Saint Joseph Catholic Church, who stated that the applicant and her family have been parishioners at his church.
26. Copies of [REDACTED] passenger receipts for Southwest airline tickets issued on October 22, 2001, regarding her trip from Omaha, Nebraska to the Baltimore Washington International (BWI) airport.
27. Copies of a certificate in Spanish from the Ministry of Education in El Salvador.
28. Copies of her mother's employment authorization card, social security card and identification card issued by the State of Nebraska.

The statements from [REDACTED] as detailed in No. 2 and 24 above, regarding the applicant's claimed presence in the United States before February 13, 2001, are not supported by corroborative evidence. It is reasonable to expect that the applicant would have some type of contemporaneous evidence to support these assertions. Affidavits are not, by themselves, persuasive evidence of residence or presence.

Further, the money transfer receipt as detailed in No. 12 above, indicates that funds were transferred from the applicant's mother, [REDACTED] to the applicant in El Salvador on August 26, 2001. It would seem that since these funds were intended to be received by the applicant in El Salvador, that she would not have been in the United States at that time. 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 this discrepancy. Therefore, the reliability of the remaining evidence offered by the applicant is suspect.

The letter from [REDACTED] as detailed in No. 2 above, 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 does not explain the origin of the information to which he attests, nor does he provide the address where the applicant resided during the period of his involvement with the church. It is further noted that the letter from [REDACTED] and those from [REDACTED] as detailed in No. 2, and Nos. 6 and 25 above, respectively, do not provide the information as specifically required by 8 C.F.R. § 244.9(a)(2)(v).

The applicant submitted two documents bearing the name of [REDACTED] as detailed in Nos. 3 and 26 above. The applicant did not provide any information regarding this individual and the relevance of these documents with regards to her application for TPS.

The applicant has not submitted sufficient credible evidence to establish her qualifying residence in the United States since February 13, 2001, or her physical presence in the United States since March 9, 2001. She has, therefore, failed 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.