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20 Mass. Rm. A3042, 425 I Street, N.W.
Washington, DC 20536



U.S. Citizenship
and Immigration
Services

MI

[Redacted]

FILE: [Redacted] Office: Nebraska Service Center Date: SEP 18 2006

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.

A handwritten signature in black ink, appearing to read "R. Wiemann".

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; 2) been continuously physically present in the United States since March 9, 2001; and (3) failed to appear for fingerprinting.

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).

On February 5, 2002, and on May 16, 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:

1. A copy of her Certificate of Promotion dated March 15, 2001, from the Reseda Community Adult School in Los Angeles, California.

2. A copy of her Metro pass with monthly stickers reflecting the months of February and March 2001.
3. A copy of a hand-written receipt dated March 13, 2001, from the Association of Salvadorans of Los Angeles.
4. A copy of her check-stub dated December 19, 2002, from the Bristol Hotels and Resorts.
5. A copy of a money transfer dated May 9, 2002, from El Mundo De Mexico.

The director determined that the applicant had failed to submit sufficient evidence to establish her eligibility for TPS and denied the application on June 30, 2003. On appeal, the applicant reasserted her claim and submitted the following documentation:

6. A copy of her Internal Revenue Service (IRS), Form 9844, IRS Individual Taxpayer Identification Number Notification, dated September 25, 2000.
7. A copy of an IRS, Form W-7, Application for IRS Individual Taxpayer Identification Number, dated August 16, 2000.
8. Copies of her Metro identification cards reflecting monthly stickers of November 11, 2000, February 2001, March 2001, and May 2001.
9. Copies of her money transfers dated March 14, 2000, August 12, 2000, November 8, 2000, and April 24, 2001, from Los Angeles Express.
10. A copy of an envelope stamped with "Nov 08 2000" addressed to the applicant in the United States.
11. A copy of her registration form dated March 14, 2000, from the Reseda Community Adult School in Reseda, California.
12. A copy of a Metro fee receipt dated April 2, 2000.
13. Copies of envelopes postmarked June 7, 1999 and March 16, 2000, addressed to the applicant in the United States.

The director erred in his conclusion that the applicant had failed to appear for her fingerprinting. A review of the record shows that the applicant did appear for her fingerprint appointment on July 5, 2002.

It is worth noting that the copy of an envelope addressed to the applicant in the United States as detailed in No. 13 above, reflects a postmark date of June 7, 1999. However, on her application for TPS, she had indicated that she did not enter the United States until November 5, 1999. It is not clear why the applicant would have letters sent to her in the United States when she claimed that she did not enter the United States until almost five months later.

Further, the photocopied student registration receipt and Metro fee receipt, detailed in Nos. 11 and 12 above, respectfully, appear to have been altered as the original birth date seems to have been covered-over and the applicant's birth date inserted in its place.

The applicant did not submit any evidence of continuous residence or physical presence between June 2001 and December 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, 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 and apparent alterations of the documents. Therefore, the reliability of the remaining evidence offered by the applicant is suspect and it must be concluded that the applicant has failed to satisfy 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 on this ground 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.