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Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
[EAC 02 268 51494]

Office: Vermont Service Center

Date: APR 15 2008

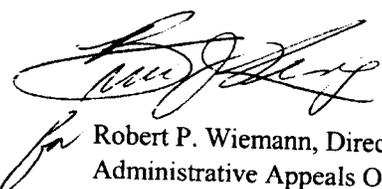
IN RE: Applicant: [REDACTED]

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.


for Robert P. Wiemann, Director
Administrative Appeals Office

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 denied the application because the applicant failed to establish her qualifying residence and physical presence in the United States during the requisite periods.

On appeal, the applicant submits evidence in support of her eligibility for TPS.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an applicant is eligible for TPS 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 § 244.3;
- (e) Is not ineligible under § 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 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 September 9, 2006, 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 November 20, 2002, and on June 30, 2003, the applicant was requested to submit evidence establishing her continuous residence in the United States as of February 13, 2001, and her continuous physical presence in the United States from March 9, 2001, to the date of filing her application. The director determined that the applicant

did not respond to the director's requests; therefore, the director determined that the applicant had failed to establish her eligibility for TPS and denied the application on August 22, 2003.

On appeal, the applicant states that she is sending copies of all her papers for the second time. She also states that it was not her fault that the Service did not receive her correspondence. In addition, the applicant provides, on appeal, a copy of the United States Postal Service Certified Mail Receipt dated July 26, 2003 as proof of her response to the director's request. The applicant also provides the following documentation along with her appeal: a copy of her Employment Authorization card; copies of three lease agreements for the time period between October 27, 1999 and July 30, 2004; copies of several earnings statements from Poja Properties, Inc., reflecting pay dates from September 21, 2001 to April 4, 2003; copies of several personal checks written by the applicant dated November 11, 2002 to August 15, 2003; a copy of a hand-written receipt dated March 12, 2002; copies of her statement of account dated February 9, 2003, from Adventist Health Care; copies of her Sprint PCS billing statements dated January 21, 2003 to July 21, 2003; copies of her statement of account from Chevy Chase bank dated March 18, 2002, December 17, 2002, February 18, 2003, March 18, 2003, and August 18, 2003; copies of money transfers from Bancomercio dated July 12, 2002 and July 3, 2003; copies of the front of envelopes addressed to the applicant in the United States bearing postmark dates of December 24, 2001, December 7, 2001, and January 15, 2002, a copy of a money transfer from Gigante Express bearing a date of "September 17, 200"; copies of her Verizon account summary dated May 25, 2002; a copy of a letter from Creditor Claims of America Incorporated dated August 12, 2003; copies of Western Union money transfers dated July 19, 2002 and December 24, 2002; a copy of a letter from Chesapeake Credit, Inc., dated April 13, 2003; a copy of a receipt dated November 19, 2002 from Radio Shack; copies of personal checks made payable to the applicant from [REDACTED] dated August 17, 2001, August 30, 2001, and October 20, 2001; a letter dated May 13, 2003 from [REDACTED]; a letter dated April 15, 2003 from [REDACTED] Attorney at Law; and a severance letter from Econo Lodge indicating her employment start date of September 11, 2001.

A review of the record of proceedings reflects that on July 28, 2003, the applicant had responded to the director's June 30, 2003 request. The applicant's response contained copies of the same evidence that she submitted along with her appeal as listed above.

On appeal, the applicant submits a lease agreement for [REDACTED] in Gaithersburg, Maryland beginning on October 27, 1999, and ending on August 30, 2001. The applicant also submits another lease agreement for [REDACTED] beginning on September 1, 2001, and ending on July 30, 2002. In addition, the applicant submits another lease agreement for a residence at [REDACTED] Maryland beginning on July 1, 2002, and ending on July 30, 2004. It is noted that these lease agreements are generic and are not notarized or witnessed.

The applicant stated on her applications for temporary protected status and employment authorization filed on August 19, 2002, that she resided at [REDACTED]. In addition, the applicant, along with her TPS application, submitted an affidavit dated August 9, 2002, attesting that she resided at [REDACTED]. The record also contains a copy of an Applicant Information Worksheet dated October 18, 2002, from the Applicant Support Center in Wheaton, Maryland. The applicant indicated on the worksheet that she resided at [REDACTED] in [REDACTED]. However, the lease agreement covering the same time period indicates that she resided at [REDACTED]. The record of proceedings also contains copies of two

envelopes postmarked December 7, 2001 and January 15, 2002, addressed to the applicant at yet another address [REDACTED]. However, during the same time period the lease agreement submitted along with her appeal indicates a different address of [REDACTED]. in [REDACTED]. 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 discrepancies in her claimed residences. 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 continuous residence and continuous 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.

An alien applying for TPS 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.