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U.S. Citizenship
and Immigration
Services

MI

FILE: [REDACTED]
[SRC 01 200 54423]

Office: TEXAS SERVICE CENTER Date: **AUG 15 2005**

IN RE: Applicant: [REDACTED]

AKA [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

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Texas 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 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. The director, therefore, denied the application.

On appeal, the applicant asserts that she applied for TPS in a timely manner and can prove that she has resided in the United States since February 13, 2001. The applicant submits additional evidence in an attempt to establish continuous residence and continuous physical presence in the United States during the qualifying period.

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.

The term *continuously physically present*, as used 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 term *continuously resided*, as used 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.

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. Subsequent extensions of the TPS designation have been granted by the Secretary of the Department of Homeland Security, with the latest extension granted 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).

The record shows that the applicant filed her TPS application on April 30, 2001. On December 24, 2002, the applicant was provided the opportunity to submit evidence establishing continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States from March 9, 2001, to the filing date of the application. In her decision, the director listed the evidence furnished by the applicant in response to her request for additional evidence. The director determined that the applicant failed to establish continuous residence and continuous physical presence in the United States during the qualifying period. Therefore, the director denied the application.

On appeal, the applicant states that she timely applied for, and subsequently re-registered for, TPS. According to the applicant, when she responded to the request for additional evidence she did not know what evidence was needed, but, she has now provided evidence that she was physically present in the United States since February 13, 2001 to the present. The applicant provides:

1. A copy of a stamped envelope date-stamped December (day unknown), 2000.
2. A copy of an inoculation record showing an injection was given on June 4, 2001, and a bill from Radiology West, Houston, Texas dated December 31, 2003.

3. Copies of pay stubs from Crown Staffing, The Woodlands, Texas dated September 5, 2001, October 3, 2001, November 7, 2001, December 12, 2001, January 2, 2002, and February 13, 2002.
4. A copy of a Texas Department of Public Safety Temporary Permit issued September 10, 2002, and a Driver License with an expiration date of June 8, 2009.
5. Copies of bills from Reliant Energy, Houston, Texas dated October 18, 2002 and January 21, 2004.
6. A copy of a State of Texas Certificate of Title, for a vehicle, issued January 30, 2003.
7. Copies of bills from Time Warner Cable dated September 7, 2003 and March 7, 2004.
8. A copy of a money transfer receipt from BancoSal, Inc., dated October 22, 2003.
9. Copies of 2002 and 2003 Internal Revenue Service (IRS) Form 1040A U.S. Individual Income Tax Returns, including 2002 and 2003 IRS Form W-2 Wage and Tax Statements.
10. Copies of the applicant's Employment Authorization Card issued on November 14, 2003.

The date-stamped envelope bears the applicants name as the sender of mail and is date-stamped December 21, 2000. However, this is not evidence of her presence in the United States. The remaining evidence submitted by the applicant is dated subsequent to the dates required to establish entry, continuous residence and continuous physical presence during the qualifying period. Therefore, this evidence is of little or no probative value.

The applicant has not submitted sufficient evidence to establish that she has met the criteria for continuous residence and continuous physical presence 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.