

U.S. Department of Homeland Security  
20 Massachusetts Ave., N.W., Rm. A3042  
Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

IDENTIFICATION

IDENTIFICATION CARD (ID) FOR  
PROTECTED PERSONS (TEMPORARILY  
PROTECTED PERSONS)



MM

FILE: [REDACTED] OFFICE: CALIFORNIA SERVICE CENTER DATE: AUG 25 2005  
[WAC 03 026 53010]

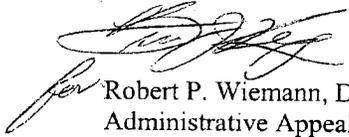
IN RE: Applicant: [REDACTED]

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.

  
per Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, California 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 had failed to respond to a request to submit evidence establishing her: (1) continuous residence in the United States since February 13, 2001; (2) continuous physical presence from March 9, 2001, to the date of filing the application; and (3) identity.

On appeal, counsel submits a statement and additional evidence.

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 § 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 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 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 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).

The record shows that the applicant filed her TPS application on September 13, 2002. In support of her application, the applicant submitted:

1. Affidavits dated September 7, 2002, from [REDACTED] all stating that they have known the applicant since February 13, 2001, that she is a good friend, an honest person, and a hard worker.
2. A copy of her El Salvadoran birth certificate with English translation, and a copy of the biographic page of her El Salvadoran passport issued in New York on April 19, 2002.

Because the evidence of record did not adequately illustrate that the applicant was clearly eligible for the benefit sought, she was requested on October 6, 2003, to submit evidence establishing: (1) continuous residence in the United States since February 13, 2001; (2) continuous physical presence from March 9, 2001, to the date of filing her application; and (3) her identity. The applicant failed to respond; therefore, the director denied the application on December 3, 2003. It is noted, however, that the applicant had established her identity based on her birth certificate and passport, detailed in No. 2 above. Therefore, the finding of the director that the applicant had failed to establish her identity is withdrawn.

On appeal, the applicant asserts that she did send the requested information, and that she is resubmitting the documents to prove that she qualifies for TPS. She resubmits copies of affidavits detailed in No. 1 above, and copies of her birth certificate and passport detailed in No. 2 above. She also submits:

3. Another affidavit from [REDACTED] dated December 20, 2003, stating that she met the applicant when she first came to the U.S. to live with her and her family, and that the applicant's mother asked her to welcome and help the applicant once she arrived. She indicated that the applicant resided in Los Angeles from February 2000 to July 2000; in Denver, Colorado from July 2000 to July 2001; in Bay Shore, New York from July 2001 to July 2002; and in Los Angeles from July 2002 to the present. She further indicated that she had not seen the applicant for two years, but she is now back in Los Angeles.
4. Copies of four pay stubs, three of which are dated January 29, 2001, and one dated May 17, 2003; and a purchase receipt from "GroupeX" dated March 28, 2003.
5. Various receipts issued to the applicant dated October 26, 2002; November 22, 2002; December 13, 2002; January 10, 2003; January 21, 2003; February 28, 2003; March 28, 2003; April 25, 2003; May 6, 2003; July 6, 2003; August 13, 2003; August 15, 2003; August 22, 2003; and September 27, 2003;

While Ms. [REDACTED] (No. 3 above) stated that the applicant resided with her and her family when she first entered the United States in January 2000, it is noted that the applicant indicated on her TPS application that she entered the United States on January 20, 1994. She also indicated on two of her Form(s) I-765, Application(s) for Employment Authorization, signed on September 7, 2002 and on August 16, 2003, that she entered the United States on February 11, 2001. The inconsistency of this information raises questions of credibility. Further, this affidavit of [REDACTED] is deemed insufficient because she had claimed that she did not see the applicant for two years (from July 2000 to July 2002) during the requisite period required to establish eligibility. 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 discrepancy in the evidence she provided. Therefore, the reliability of the remaining evidence offered by the applicant is suspect.

Furthermore, the copies of the four pay stubs and the purchase receipt, listed in No. 4 above, are insufficient as they do not contain the name of the person(s) to whom these were issued. Additionally, the various receipts listed in No. 5 above are all dated after the requisite period required to establish continuous residence and continuous physical presence.

Regulations at 8 C.F.R. § 244.9(a)(2) do not expressly provide that personal affidavits on an applicant's behalf are sufficient to establish the applicant's qualifying continuous residence or continuous physical presence in the United States. Moreover, the affidavits provided to establish the applicant's qualifying residence in the United States (Nos. 1 and 3 above) were not supported by any other corroborative evidence. The applicant claimed to have lived in the United States since January 20, 1994. It is reasonable to expect that the applicant would have some other type of contemporaneous evidence to support her claim; however, no such evidence has been provided.

The applicant has failed to establish that she has met the criteria for continuous residence since February 13, 2001, and continuous physical presence since March 9, 2001, as described in 8 C.F.R. § 244.2(b) and (c). Consequently, the director's decision to deny the application will be affirmed.

Beyond the decision of the director, it is noted that the applicant filed her TPS application on September 13, 2002, after the initial registration period for El Salvadorans (from March 9, 2001 to September 9, 2002) had

closed. There is no evidence in the record that the applicant fell within the provisions described in 8 C.F.R. § 244.2(f)(2) (listed above). Therefore, the application will also be denied for this reason.

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.