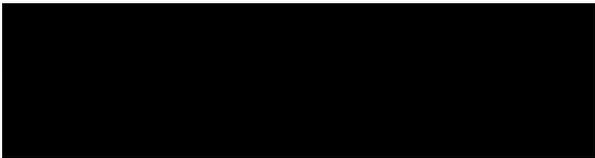




U.S. Citizenship  
and Immigration  
Services

PUBLIC LAW  
Identify...  
prevent...  
invasion of...  
territory



M1

FILE: [REDACTED]  
[EAC 01 209 51210]

OFFICE: VERMONT SERVICE CENTER

DATE: AUG 25 2005

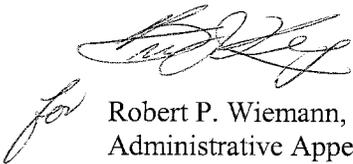
IN RE: Applicant: [REDACTED]

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 had failed to submit sufficient evidence to establish that she: (1) had continuously resided in the United States since February 13, 2001; (2) had been continuously physically present from March 9, 2001, to the date of filing the application; and (3) is a citizen or national of El Salvador.

On appeal, the applicant submits a statement and evidence previously furnished and contained in the record.

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 June 13, 2001. In support of her application, she submitted:

1. A copy of her El Salvadoran birth certificate with English translation.
2. An affidavit from [REDACTED] dated April 14, 2001, stating that she is the sister of the applicant and that the applicant has been living in her house since December 2000.

Because evidence furnished was insufficient to establish eligibility, on October 30, 2003, the applicant was requested to submit evidence to show that she is a citizen or national of El Salvador, and evidence to establish continuous residence and continuous physical presence in the United States during the requisite period. In response, the applicant submits:

3. A statement from the applicant dated November 26, 2003, stating that she has resided in the United States since December 26, 2000; she was illegal and she never kept any receipts in her name; and that she rented a room in New York when she first arrived, but she has no rent receipts because the rent was paid by her brother-in-law.
4. A copy of an El Salvadoran Identification Card (Cedula) issued on October 20, 2000, containing the applicant's photograph.
5. A copy of her El Salvadoran marriage certificate and another copy of her El Salvadoran birth certificate with English translations.

6. An affidavit from [REDACTED] dated November 22, 2003, stating that he knows the applicant as an "Invitee" of his from December 26, 2000 to April 2001, and that on February 13, 2001, he saw her at his address in New York.

The director determined that the evidence furnished was insufficient to establish eligibility and denied the application on March 12, 2004.

Based on the applicant's Cedula and her birth certificate (Nos. 1 and 4 above), it is concluded that the applicant has established that she is a citizen and national of El Salvador. Therefore, the applicant has overcome this finding of the director.

On appeal, the applicant requests that documents furnished be reviewed. She resubmits copies of documents previously furnished (Nos. 3 and 6 above).

Mr. [REDACTED] (No. 6 above) failed to explain his relationship with the applicant, and how often he saw the applicant during the period from December 26, 2000 to April 2001. Additionally, although the applicant claimed in her statement (No. 3 above) that she rented a room in New York when she first arrived in the United States, the applicant's sister (No. 2 above) claimed that the applicant had been living in her house since December 2000. The inconsistencies of these statements raise questions of credibility.

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.

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 statements provided to establish the applicant's qualifying residence in the United States were not supported by any other corroborative evidence. The applicant claimed to have lived in the United States since December 2000. 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.

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.