

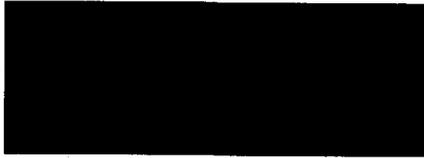
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U.S. Department of Homeland Security  
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Washington, DC 20529



**U.S. Citizenship  
and Immigration  
Services**

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prevent clearly unwarranted  
invasion of personal privacy**



**M1**

FILE: [REDACTED]  
[EAC 01 236 53507]

Office: VERMONT SERVICE CENTER

Date: **AUG 29 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.

Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The application and a subsequent motion were denied by the Director, Vermont Service Center. The matter 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 continuously resided in the United States since February 13, 2001.

On appeal, the applicant submits documentation concerning her continuous residence in this country.

It is noted that the record shows that although the applicant has been granted employment authorization in the past, her initial application for TPS has never been approved.

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. The Secretary of the Department of Homeland Security has granted a subsequent extension of the TPS designation 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 July 27, 2001. Upon initial submission, the applicant forwarded:

1. An undated letter from [REDACTED] of Wheaton, Maryland who states "I know to Ms. [REDACTED] since December, 2000, because we met at the same home, because we met at the same house, because Ms. [REDACTED] is renting a room in my house."
2. A copy of her Republic of El Salvador passport issued to her in San Salvador on March 16, 2001.

3. A copy of her El Salvadorian national identification card issued to her on March 14, 2001 in San Salvador.

The director determined that the applicant failed to submit sufficient evidence to establish her continuous residence in the United States during the qualifying period. Therefore, the director denied the application.

On appeal to the director's decision dated April 9, 2004, the applicant submits:

4. A copy of her Maryland driver's license issued May 17, 2003.
5. An affidavit dated April 21, 2004 from [REDACTED] of Wheaton, Maryland who states that the applicant worked for her as a babysitter from December 2000 to May 2001.
6. An copy of an "affidavit of address" dated February 18, 2004 from [REDACTED] of Wheaton, Maryland who states the applicant "was living in my house from December of 2000 until August of 2001; Miss [REDACTED] was paying \$300.00 dollars a month for rent and utilities."
7. Copies of eight rent receipts in the amount of \$300 each issued to the applicant by [REDACTED] for the period from December 11, 2000 through August 11, 2001.
8. A copy of an undated letter from the president of G&D Decorating Inc. in Silver Spring, Maryland indicating that the applicant worked for the company from May 1, 2001 to June 15, 2001 when she left. The writer states that she was rehired on February 1, 2003.
9. A copy of a letter dated February 16, 2004 from [REDACTED] a customer service advocate, of Gigante Express in Miami, Florida. The writer thanks the applicant for her years of patronage and indicates that she has been a customer since 2001.
10. A copy of the applicant's pay slip from International Cleaning Corporation in Saint Louis, Missouri for the pay period ending December 31, 2001.
11. A copy of the applicant's pay slip from Ultimate Services, Inc. in Springfield, Maryland for the pay period beginning December 1, 2002.
12. A copy of a letter dated February 12, 2004 from [REDACTED] International Media Academy indicating that the applicant has been an ESL Personal Enrichment Program student from July to October 2002.
13. A copy of a delivery receipt dated December 4, 2002 to the applicant from Casa Furniture and Bedding, LLC showing delivery to Silver Spring, Maryland.
14. A copy of a repair order from Verizon dated February 20, 2003 for the applicant's telephone in Silver Spring, Maryland.

15. A copy of a change of address confirmation providing a new address start date of January 3, 2003 to the applicant from the United States Postal Service.
16. A copy of a telephone bill dated March 8, 2004 to the applicant from Sprint PCS.
17. A copy of a letter posted on July 17, 2003 from the Maryland Motor Vehicle Administration to the applicant.
18. A copy of the applicant's pay slip dated February 26, 2004 from Yentzer Associates Inc. in Silver Spring, Maryland.

The applicant has not presented sufficient evidence of her date of entry. Additionally, it is noted that the record contains an undated letter (Item #1) from [REDACTED] of Wheaton, Maryland who states "that I know to Ms. [REDACTED] since December, 2000, because we met at the same home, because Ms. [REDACTED] renting a room in my house." The record also contains an affidavit dated April 21, 2004 (Item #5) from [REDACTED] of Wheaton, Maryland who states that the applicant worked for her as a babysitter from December 2000 to May 2001. The record also contains an affidavit of address dated February 18, 2004 (Item # 6) from [REDACTED] of Wheaton, Maryland who states the applicant "was living in my house from December of 2000 until August of 2001; Miss [REDACTED] was paying \$300.00 dollars a month for rent and utilities." These are the only documents to establish her qualifying continuous residence or continuous physical presence in the United States during the period from before February 13, 2001, to May 1, 2001 when she purportedly started working for G&D Decorating Inc. in Silver Spring, Maryland (Item # 8). These documents are not credible because the national identity documents that the applicant forwarded for the record clearly show that she was in El Salvador in March 2001 (Items #2 and #3) when they were issued to her abroad and during the period of time when she was purportedly renting and working as a babysitter in Wheaton, Maryland. 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 discrepant information. Therefore, the reliability of the remaining evidence offered by the applicant is suspect and it shall be concluded that the applicant has failed to provide reliable evidence upon which to base this TPS application. She has, thereby, failed to establish that she has met the criteria described in 8 C.F.R. §§ 244.2(b) and (c) (*supra*). Consequently, the director's decision to deny the application for TPS 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.