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U.S. Citizenship  
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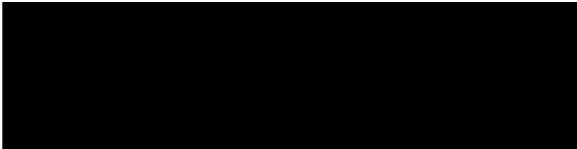
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FILE: [REDACTED] Office: VERMONT SERVICE CENTER Date: AUG 29 2005  
[EAC 01 170 55097]

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:



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. A motion to reopen, filed by the applicant, was granted by the director and she again denied the application. The applicant appealed the director's decision, and it 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 initially denied the application after determining that the applicant had abandoned her application by failing to appear for fingerprinting.

The director subsequently determined that the applicant failed to establish she had continuously resided in the United States since February 13, 2001. The director, therefore, denied the application.

On appeal, the applicant provides additional evidence in an attempt to establish continuous residence and continuous physical presence 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 5, 2001. On October 8, 2003, the applicant was provided the opportunity to submit evidence establishing continuous residence in the United States since February 13, 2001. The applicant, in response, provided:

1. A Medallion Eligibility Card issued December 20, 1999.
2. A copy of a State of Virginia Identification card issued on December 27, 1999.
3. Copies of Birth Certificates for the applicant's children showing births on September 9, 1997 and July 28, 1999.

The evidence indicates that the applicant was present in the United States prior to February 13, 2001, but fails to establish that the applicant has continuously resided in the United States since February 13, 2001.

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

On appeal, counsel for the applicant requests that the director's decision be reconsidered. The applicant also submits a copy of a transcript of her 2001 Federal Income Tax Return, a copy of an unsigned 2002 Internal Revenue Service (IRS) Form 1040A U.S. Individual Income Tax Return, and, copies of 2001 and 2002 IRS Form W-2 Wage and Tax Statements. In addition, the applicant provides a letter from an unidentified individual from Verizon.

The income tax documents indicate the applicant was present in the United States in 2001 and 2002. However, the documentation does not establish that the applicant has continuously resided in the United States since February 13, 2001. In the letter from Verizon, it is stated that the applicant had telephone service from **January 14, 2000 through December 12, 2002** at [REDACTED] and that the applicant had telephone service since **April 11, 2003** at [REDACTED]. However, on her TPS application, dated April 2, 2001, the applicant indicated that her address was [REDACTED]. This conflicts with the claim made in the Verizon letter. 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 not submitted sufficient evidence to establish that she has met the criteria for continuous residence described in 8 C.F.R. § 244.2 (c). Consequently, the director's decision to deny the application for temporary protected status will be affirmed. Beyond the decision of the director, it is noted that the applicant has provided insufficient evidence to establish her qualifying continuous physical presence during the requisite time period. Therefore, the application must be denied for this reason as well.

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.