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U.S. Citizenship
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FILE: [REDACTED]
[EAC 02 240 53505]

Office: VERMONT SERVICE CENTER

Date: **DEC 28 2005**

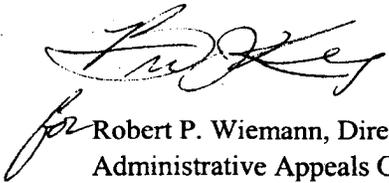
IN RE: Applicant: [REDACTED]

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. 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 on the motion, 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 respond to a request for evidence.

The director subsequently 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 provides 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 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, with the latest extension granted until September 9, 2006, upon the applicant's re-registration during the requisite 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 5, 2002. In support of her application, the applicant submitted a copy of her birth certificate, with English translation, a copy of her El Salvadoran identification card, and statements from [REDACTED] and [REDACTED]. On April 9, 2003, 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. The applicant failed to respond to the notice. The director, therefore, denied the application as abandoned.

On June 7, 2004, the applicant was again 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. The applicant was also requested to submit a photo identity document. The applicant, in response, provided:

1. A copy of a hand-written generic rent receipt dated February 2, 2001.

2. Copies of certificates from the Hempstead, New York Public Schools dated June 20, 2002.
3. Copies of date-stamped envelopes dated August 12, 2002, and August 16, 2002.
4. Copies of receipts from Urgente Express dated November 19, 2002, January 7, 2003, January 22, 2003, January 29, 2003, March 2, 2003, and June 13, 2003.
5. Copies of receipts from Western Union dated December 15, 2003, January 14, 2004, March 26, 2004, April 27, 2004, May 8, 2004, May 10, 2004, May 28, 2004 and June 1, 2004.
6. Copies of earnings statements from [REDACTED] dated April 1, 2004, April 8, 2004, April 15, 2004, April 22, 2004, April 29, 2004, May 6, 2004, May 13, 2004, May 20, 2004, May 27, 2004, June 3, 2004, and June 10, 2004.

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

On appeal, the applicant provides additional statements from [REDACTED] and resubmits evidence previously provided in an attempt to establish continuous residence and continuous physical presence in the United States during the qualifying period. The record also contains statements from [REDACTED] and [REDACTED] Mr. [REDACTED] states that he has known the applicant since 1989. Ms. [REDACTED] states that she has rented a room to the applicant since December 2000. Mr. [REDACTED] and Ms. [REDACTED] state that they have known the applicant since December 2000. Ms. [REDACTED] Mr. [REDACTED] Ms. [REDACTED] and Mr. [REDACTED] state that they have known the applicant since 2000. However, these statements are not supported by any corroborative evidence. It is reasonable to expect that the applicant would have some type of contemporaneous evidence to support these assertions; however, no such evidence has been provided. Affidavits are not, by themselves, persuasive evidence of residence or physical presence.

The rent receipt is also not supported by any corroborative evidence. Of the remaining evidence presented by the applicant, the certificates from the Hempstead Public Schools are dated June 20, 2002, and are the earliest date presented as evidence of the applicant's presence in the United States.

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.

The application will be denied for the above stated reasons, with each considered as an independent and alternative basis for denial. 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.