

Identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy

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



U.S. Citizenship  
and Immigration  
Services

PUBLIC COPY

M1



FILE: [REDACTED]  
[EAC 02 272 51589]

Office: VERMONT SERVICE CENTER

Date: FEB 15 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:



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*

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 determined that the applicant failed to establish she had been continuously physically present in the United States since March 9, 2001. The director, therefore, denied the application.

On appeal, counsel for the applicant states that the applicant misunderstood the procedures for filing her original application. The applicant also 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 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. A subsequent extension of the TPS designation has been granted by the Secretary of the Department of Homeland Security, with validity until September 6, 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 August 24, 2002. On July 31, 2003, the applicant was provided the opportunity to submit evidence establishing continuous physical presence in the United States from March 9, 2001, to the filing of the application. The applicant, in response, provided a letter from [REDACTED] states that he has known the applicant since December 13, 2000.

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

On appeal, the applicant provides additional evidence in an attempt to establish qualifying continuous physical presence during the qualifying period. Specifically, the applicant provides the following:

1. Copies of receipts from Umana International Courier dated March 20, 2001, June 14, 2002, March 4, 2003 as well as a receipt with an unreadable date.
2. Letters from [REDACTED]

3. Copies of an unsigned 2002 Internal Revenue Service (IRS) Form 1040, U.S. Individual Income Tax Return, and part of a 2002 Form D-40SUB, District of Columbia Individual Tax Return.
4. Copies of a Washington, D.C. Identification card issued October 15, 2002, and the applicant's employment authorization card issued September 5, 2002.
5. A copy of a United States Postal Services Express Mail receipt dated September 28, 2003.

both state that they have known the applicant since March 2001. identified as the applicant's godfather, states that the applicant has been in the United States since December 2000. However, these statements are also 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. Moreover, affidavits are only specifically requested as evidence by individuals, as proof of employment, and by churches, unions, or other organizations, as evidence of the applicant's residence. 8 C.F.R. § 244.9(a)(2)(i) and (v).

Of the remaining evidence presented on appeal, the receipt from Umana International Courier dated March 20, 2001, is the earliest date presented as evidence of the applicant's presence in the United States. Nor are these generic receipts sufficient to establish the applicant's continuous physical presence and continuous residence during the requisite periods.

The applicant has not submitted sufficient evidence to establish that she has met the criteria for continuous physical presence described in 8 C.F.R. § 244.2(b). Consequently, the director's decision to deny the application for temporary protected status will be affirmed.

Beyond the director's decision, it is noted that the applicant has also failed to provide sufficient evidence to establish her continuous residence in the United States during the requisite time periods. Therefore, the application must be denied on this basis 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.