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

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U.S. Citizenship  
and Immigration  
Services

MI

[Redacted]

FILE: [Redacted]

Office: Vermont Service Center

Date: **JAN 18 2005**

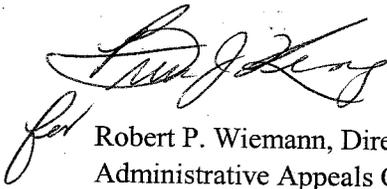
IN RE: Applicant: [Redacted]

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 failed to establish she had continuously resided in the United States since February 13, 2001, and had been continuously physically present in the United States from March 9, 2001, to the date of filing her application.

On appeal, the applicant submits evidence in support of her claim of eligibility for TPS.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an applicant is eligible for TPS 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 § 244.4; and
- (f)
  - (1) Registers for Temporary Protected Status 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 phrase *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.

The phrase *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 phrase *brief, casual, and innocent absence*, as defined in 8 C.F.R. § 244.1, means a departure from the United States that satisfies the following criteria:

- (1) Each such absence was of short duration and reasonably calculated to accomplish the purpose(s) for the absence;
- (2) The absence was not the result of an order of deportation, an order of voluntary departure, or an administrative grant of voluntary departure without the institution of deportation proceedings; and
- (3) The purposes for the absence from the United States or actions while outside of the United States were not contrary to law.

Persons applying for TPS offered to El Salvadorans must demonstrate continuous residence in the United States since February 13, 2001, and continuous physical presence 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 March 9, 2005, 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).

On May 14, 2003, the applicant was requested to submit evidence establishing her continuous residence in the United States as of February 13, 2001, and continuous physical presence in the United States from March 9, 2001, to the date of filing her application. However, the applicant did not respond to the director's request. The director, therefore, determined that the applicant had failed to establish her eligibility for TPS and denied the application on July 21, 2003.

On appeal, the applicant stated that she never received the director's request for evidence, and submits the following documentation: a copy of the biographical pages of her El Salvador passport; an affidavit dated August 1, 2003, from Mr. [REDACTED] who stated that he has known the applicant since her arrival in the United States in January 2001; an affidavit dated August 6, 2003, from Mr. [REDACTED] who stated that he has known the applicant for three years, and that the applicant has been in the United States since the year 2000; an affidavit dated August 11, 2003, from Ms. [REDACTED] who stated that she has known the applicant since 2000 when the applicant came to the United States; a copy of her Applicant Information Worksheet dated December 27, 2002; a copy of a letter dated February 12, 2003, from the Social Security Administration regarding her application for a Social Security card; a copy of her earnings statement bearing a check date of August 20, 2003; and a letter dated July 11, 2003, from [REDACTED] of New York.

A review of the record of proceedings reflects that the director's May 14, 2003 request was sent to the applicant's last known address at [REDACTED], New York. It seems that the applicant may have misspelled the street address because her address also appears as [REDACTED] in her statement that she provided along with her appeal. It is interesting to note, however, that the applicant did receive the director's notice to deny her application at the [REDACTED] street address.

The statements provided by the affiants regarding the applicant's claimed presence in the United States are not supported by corroborative evidence covering the requisite time periods for El Salvador TPS. It is reasonable to expect that the applicant would have some type of contemporaneous evidence to support these assertions. Affidavits from acquaintances are not, by themselves, persuasive evidence of residence or physical presence. Further, it is worth noting that Mr. [REDACTED] stated that the applicant came to United States in January 2001; however, on her application, the applicant claimed that she had entered in the United States on December 18, 2000. 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 discrepancies. Therefore, the reliability of the remaining evidence offered by the applicant is suspect. In addition, the dates on her earnings statement and the letters submitted by the applicant on appeal post-date the requisite time periods for continuous residence and continuous physical presence in the United States by two years.

The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. 8 C.F.R. § 244.9(b). It is determined that the documentation submitted by the applicant is not sufficient to establish that she satisfies the residence and physical presence requirements 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.

An alien applying for TPS 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.