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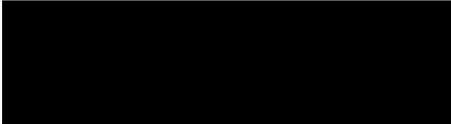
U.S. Department of Homeland Security  
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U.S. Citizenship  
and Immigration  
Services

M1



FILE: [REDACTED]  
[SRC 04 125 55698]

Office: TEXAS SERVICE CENTER Date: JUL 05 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 was denied by the Director, Texas Service Center, and is now before the Administrative Appeals Office (AAO) 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 her qualifying continuous residence and her continuous physical presence in the United States during the requisite periods.

On appeal, the applicant submits a statement and additional evidence.

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 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 parole; or
    - (iv) The applicant is a spouse or child of an alien currently eligible to be a TPS registrant.

- (g) Has filed an application for late registration with the appropriate Service director within a 60-day period immediately following the expiration or termination of conditions described in paragraph (f)(2) of this section.

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. Subsequent extensions of the TPS designation have been granted with validity of the latest extension until September 9, 2006, upon the applicant's re-registration during the requisite time period.

The initial registration period for El Salvadorans was from March 9, 2001, through September 9, 2002. The record reveals that the applicant filed her initial TPS application with Citizenship and Immigration Services (CIS), on March 30, 2004.

The burden of proof is upon the applicant to establish that she meets the above requirements. Applicants shall submit all documentation as required in the instructions or requested by 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 her burden of proof, the applicant must provide supporting documentary evidence of eligibility apart from her own statements. 8 C.F.R. § 244.9(b).

The director determined that the applicant had failed to establish her qualifying continuous residence in the United States since February 13, 2001, and her continuous physical presence in the United States since March 9,

2001, and, therefore, denied the application on July 21, 2004. The director's decision noted that the applicant had specified on her TPS application that she entered the United States in January 2003, and, therefore, did not meet all of the qualifications described in section 244 of the Act.

On appeal, the applicant states that she has proof that she entered the United States prior to February 13, 2001. She asks that her application be reconsidered as she is married to a TPS registrant and has a young child born in the United States who needs her support. In support of the appeal, the applicant submits additional documentation consisting of the cover, biographic and other pages of her El Salvadoran passport, issued on May 14, 1999, with validity through May 14, 2004, bearing an admission stamp at New York, New York, on June 22, 1999. The applicant also resubmits documentation previously entered into the record including: a hospital record for the birth of a child on February 16, 2004; a State of Georgia Marriage Certificate, reflecting the marriage of the applicant to [REDACTED] in Lawrenceville, Georgia, on August 21, 2003; the Social Security card of [REDACTED] the Georgia Driver's License of [REDACTED] the Employment Authorization document (EAD) for [REDACTED] under Category C19, with validity from November 11, 2003 through March 9, 2005.

The applicant submitted pages of her El Salvadoran passport, bearing an admission stamp at New York, New York, on June 22, 1999. The records of CIS reflect an entry by the applicant on that date, noting that she was to accompany her grandmother, with an intended destination in Bronx, New York. CIS records reflect a subsequent departure to El Salvador on July 22, 1999. On the Form I-821, Application for Temporary Protected Status, and on the Form I-765, Application for Employment Authorization, the applicant indicated her date of entry into the United States as "January 2003." The record does not contain any evidence of the applicant's continuous residence and continuous physical presence during the specified dates. The applicant has not established that she has met the criteria described in 8 C.F.R. § 244.2(b) and (c). Consequently, the director's decision to deny the application for temporary protected status on these grounds will be affirmed.

Beyond the decision of the director, the applicant also has not established her eligibility for late initial registration as set forth in 8 C.F.R. § 244.2(f)(2) and (g). The record reflects that the applicant was married to [REDACTED] in Lawrenceville, Georgia, on August 21, 2003; the applicant's marriage to a TPS registrant was not in effect during the initial registration period. In addition, it is noted that [REDACTED] has a pending TPS application with interim TPS employment authorization, but as of this date has not been approved for TPS benefits.

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.