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U.S. Citizenship  
and Immigration  
Services

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JUN 06 2005

FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date:  
[WAC 02 229 55086]

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, California 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 continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States since March 9, 2001.

On appeal, the applicant submits a statement.

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 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 § 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.
- (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 has been granted, with the latest validity 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 applicant initially submitted the following evidence:

1. a photocopy of a registration form from the Los Angeles Unified School District, Los Angeles, California, indicating that the applicant enrolled in an adult English As a Second Language (ESL) class on March 11, 2002, along with a photocopy of a class schedule indicating an enrollment date of May 6, 2002;
2. a Banco Agricola money transfer receipt dated November 19, 2001; and,
3. a photocopy of the applicant's 2001-2002 Student Identification Card from the Los Angeles Unified School District, Los Angeles, California.

On October 23, 2002, the applicant was requested to submit a photo identification document and evidence establishing her continuous residence in the United States since February 13, 2001, and her continuous physical presence in the United States since March 9, 2001. The applicant, in response, provided:

4. a photocopy of her Salvadoran photo identification document (cedula) issued on May 23, 1997;
5. a letter dated November 22, 2002, from [REDACTED] Director, stating that she has known the applicant since February 21, 2001, and that the applicant is a very active [REDACTED] [REDACTED];
6. her California Driver's License issued on February 20, 2002;
7. a letter dated November 29, 2002, from [REDACTED] stating that the applicant has been renting a room from him in his apartment at [REDACTED] Apt. #4, Los Angeles, California, since January 1, 2001;
8. a letter dated December 10, 2002, from [REDACTED] [REDACTED] Church in Los Angeles, California, stating that the applicant has attended mass in his parish on a regular basis since January 2001;
9. a Banco Agricola money transfer receipt dated December 17, 2001; and,
10. a letter dated October 31, 2002, from [REDACTED] Assistant Principal at the [REDACTED] Community Adult School in Los Angeles, California, stating that the applicant enrolled in the Fall Session beginning September 3, 2002, along with a listing of cumulative course hours completed by students at her school;

The director determined that the applicant had failed to submit sufficient evidence to establish her eligibility for TPS and denied the application on March 25, 2003.

On appeal, the applicant states that she has submitted all the documents she has to establish her qualifying continuous residence and continuous physical presence in the United States during the requisite periods. She further states: "I do not have early documents that show that I have been residing in the United States from January 12, 2001."

The letter from Ms. [REDACTED] has little evidentiary weight or probative value as it does not provide basic information that is expressly required by 8 C.F.R. § 244.9(a)(2)(i). Specifically, Ms. [REDACTED] does not provide the address where the applicant resided during the period of her employment as a [REDACTED] beauty consultant. Further, Ms. [REDACTED] did not provide any records from the [REDACTED] Company to corroborate her statement. The applicant has provided only letters to establish her residence and physical presence in the United States prior to November 17, 2001, the date of the money transfer receipt. The applicant has not provided sufficient evidence to establish continuous residence in the United States from January 13, 2001 to November 19, 2001, or her continuous physical presence in the United States from March 9, 2001 to November 19, 2001.

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 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.