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U.S. Citizenship  
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FILE:

[REDACTED]  
[EAC 02 260 50866]

Office: VERMONT SERVICE CENTER

Date: JUN 29 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, 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 that 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.

On appeal, the applicant asserts 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 who is a national of a foreign state is eligible for TPS only if such alien establishes that he or she:

- (a) Is a national of a 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 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.

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. An extension of the TPS designation has been granted with validity 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 documentation along with her initial application:

1. An affidavit from [REDACTED] in which he stated that he had known the applicant since June of 2000;
2. An affidavit from [REDACTED] in which he stated that he had known the applicant since June of 2000; and
3. An affidavit from [REDACTED] which she stated that she had known the applicant since July of 2000.

On August 8, 2003, the applicant was requested to submit evidence establishing her continuous residence since February 13, 2001, and continuous physical presence since March 9, 2001, in the United States. The applicant, in response, provided the following documentation:

4. An affidavit in which the applicant stated that she came to the United States in May of 2000, and has since been a housewife caring for her three children; and,

5. An affidavit from the applicant's husband in which he stated that the applicant does not work and therefore has no other proof, besides his statement, of her presence in the United States.

The director determined that the applicant had failed to submit sufficient evidence to establish her eligibility for TPS and denied the application on November 6, 2003.

On appeal, the applicant reasserts her claim of eligibility for TPS and submits the following documentation:

6. A copy of a Virginia State Identification Card issued March 21, 2001, and bearing the applicant's name;
7. An affidavit from [REDACTED] in which he states that he has personal knowledge of the applicant entering into the United States prior to May of 2000, and that she has been continuously residing in the state of Virginia without leaving the country;
8. An affidavit from [REDACTED] in which he states that he has personal knowledge of the applicant entering into the United States prior to May of 2000, and that she has been continuously residing in the state of Virginia without leaving the country;
9. An affidavit from [REDACTED] in which she states that she has personal knowledge of the applicant entering into the United States prior to May of 2000, and that she has been continuously residing in the state of Virginia without leaving the country; and,
10. An affidavit from [REDACTED] in which he states that he has personal knowledge of the applicant entering into the United States prior to May of 2000, and that she has been continuously residing in the state of Virginia without leaving the country.

The applicant has not submitted sufficient evidence to establish her qualifying continuous residence or continuous physical presence in the United States during the period from February 13, 2001, to August 7, 2002. The affidavits submitted have little evidentiary weight or probative value as they do not provide basic information that is expressly required by 8 C.F.R. § 244.9(a)(2)(i). Specifically, the affiants do not explain the origin of the information to which they attest, nor do they provide the address where the applicant resided during the period of her involvement with them.

Although the affiants in Nos. 7 through 10 above state that they possess personal knowledge of the applicant's entry into the United States prior to May of 2000, and her continuous residency in the state of Virginia, there has been no evidence submitted to corroborate their personal knowledge as claimed. Further, the affiants in Nos. 1, 2, and 3 above claim to have known the applicant since June and July of 2000, however, they do not specify whether the acquaintance is in the United States or another country. The applicant's husband does not indicate in his affidavit the length of time the applicant has been in the United States. The applicant claims to have lived in the United States since May of 2000. It is reasonable to expect that the applicant would have some other type of contemporaneous evidence to support these affidavits; however, no such evidence has been provided. The evidence shows that the applicant's Virginia State Identification Card was issued to her on March 21, 2001; however, this is not sufficient to demonstrate the applicant's continuous residency in the United States since February 13, 2001, or continuous physical presence in the United States since March 9, 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).

The applicant has failed to establish 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 TPS 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.