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**U.S. Citizenship
and Immigration
Services**

MI

FILE:

[REDACTED]

Office: Vermont Service Center

Date: **NOV 04 2005**

[SRC 01 222 61342]

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.

A handwritten signature in black ink, appearing to read "R. 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 denied the application because the applicant failed to respond to a request for evidence to establish her qualifying continuous residence in the United States since February 13, 2001. Therefore, the director determined that the grounds of denial had not been overcome.

On appeal, the applicant submits documentation in support of her 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.

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 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).

On May 20, 2004, the applicant was requested to submit evidence establishing her continuous residence in the United States as of February 13, 2001. The applicant did not respond to the director's request; therefore, the director determined that the applicant had failed to establish her eligibility for TPS and denied the application on July 26, 2004. It is noted that the director's May 20, 2004 request was sent to the applicant's last known address at [REDACTED] New Jersey.

On appeal, the applicant submits the following documentation in support of her eligibility for TPS: a copy of a single rent receipt dated January 1, 2001, for a room in Mission, Texas; copies of a United States Postal Service return receipt bearing a date stamp of May 7, 2001, from the Texas Service Center; a copy of an affidavit dated April 28, 2001, from [REDACTED] who stated that the applicant had worked for her as a babysitter since December 20, 2000.

On December 7, 2004, the applicant also provided the following documentation: a copy of her Texas State Personal Identification Card valid until March 24, 2008; copies of her Employment Authorization cards and

Social Security card; copies of the previously submitted return receipt dated May 7, 2001; copies of three receipt notices from the Service dated July 18, 2001, February 25, 2003, and September 10, 2003; copies of three undated TravelersExpress MoneyGrams; copies of the biographical pages of her El Salvadoran passport; a payment receipt dated April 30, 2002, from Chispa Company; a copy of her earnings statement dated February 19, 2003, from Beacon Looms, Inc.; two earnings statements from Jet Drive-In Cleaners of Englewood dated September 28, 2002 and April 7, 2004; and, a letter from PNCBank dated August 13, 2003.

The copy of a single rent receipt provided by the applicant is not supported by any other corroborative evidence. While 8 C.F.R. § 244.9(a)(2)(vi) specifically states that additional documents such as rent receipts “may” be accepted in support of the applicant’s claim, the regulations do not suggest that such evidence alone is necessarily sufficient to establish the applicant’s qualifying residence and physical presence in the United States. The affidavit from Ms. [REDACTED] regarding the applicant’s employment as a babysitter 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, the Ms. [REDACTED] does not provide the address where the applicant resided during the period of her employment. The remaining evidence submitted by the applicant post-dates the beginning of the requisite time period for continuous residence and continuous physical presence. 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 continuous residence requirements described in 8 C.F.R. § 244.2 (c). Consequently, the director's decision to deny the application for temporary protected status will be affirmed.

Beyond the decision of the director, it also is noted that the applicant has provided insufficient evidence to establish her qualifying continuous physical presence during the requisite time periods. 8 C.F.R. § 244.2(b). Therefore, the application will also be denied for this reason.

The application will be denied for the above stated reasons, with each considered as an independent and alternative basis for denial. 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.