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U.S. Citizenship
and Immigration
Services

MM

[REDACTED]

FILE:

[REDACTED]
[EAC 02 007 53589]

Office: Nebraska Service Center

Date: **NOV 30 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:

[REDACTED]

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, Nebraska 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 her date of entry prior to February 13, 2001, her continuous residence since February 13, 2001, and her continuous physical presence in the United States since March 9, 2001.

On appeal, counsel, on behalf of the applicant, asserts the applicant's claim of eligibility for TPS and submits evidence in support of her claim.

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 August 17, 2004, the applicant was requested to submit evidence establishing her date of entry to the United States prior to February 13, 2001, her continuous residence in the United States since February 13, 2001, and her continuous physical presence in the United States since March 9, 2001. In response, the applicant submitted some evidence in an attempt to establish her continuous residence in the United States and her continuous physical presence in the United States during the request time period. The director determined that the applicant had failed to submit sufficient evidence to establish her eligibility for TPS, and denied the application on September 30, 2004.

On appeal, counsel, asserts the applicant's claim of eligibility for TPS and provides the following documentation: a copy of a letter dated September 8, 2004, from Liberty Home Products indicating that the applicant had opened a line of credit in the years 2001 to 2002; a copy of a printout of the applicant's monthly payments on the line of credit dated June 11, 2001 through May 21, 2002; an affidavit dated October 25, 2004, from the applicant's mother, [REDACTED] who stated that the applicant had entered the United States in March 1999 and has lived continuously in the United States since that time; and, an affidavit dated October 25, 2004, from the

applicant's sister, [REDACTED] who stated that the applicant had entered the United States in March 1999 and she has lived continuously in the United States since that time.

The statements provided by the affiants regarding the applicant's claimed continuous residence and continuous physical presence in the United States are not supported by corroborative evidence covering the beginning of the requisite time periods for El Salvadoran TPS. Affidavits from family members are not, by themselves, persuasive evidence of continuous residence and continuous physical presence. Further, the evidence provided by counsel on appeal does not cover the beginning of the requisite time periods of continuous residence or continuous physical presence in the United States for TPS. The copies of the applicant's payments for the line of credit with Liberty Home Products, Inc. post-date the beginning of the requisite time periods by three months.

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 counsel is not sufficient to establish that the applicant satisfies the continuous residence and continuous 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.

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.