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U.S. Citizenship  
and Immigration  
Services

MI



FILE: [REDACTED]  
[EAC 01 188 54905]

Office: VERMONT SERVICE CENTER

Date: **OCT 17 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.

for Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, Vermont Service Center. An appeal filed by the applicant was treated as a motion to reopen, and the director again denied the application. The applicant appealed the director's decision on the motion, and it 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 initially determined that the applicant failed to establish she had continuously resided in the United States since February 13, 2001. The director, therefore, denied the application.

On motion, the applicant asserts that she never received any correspondence requesting documentation.

The director determined that the applicant had not overcome the grounds for denial and denied the application again.

On appeal, the applicant provides additional evidence in an attempt to establish continuous residence and continuous residence in the United States during the qualifying periods.

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 as 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 reparole; or

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

The term *continuously physically present*, as used 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 term *continuously resided*, as used 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 entry on or prior to February 13, 2001, that they have continuously resided in the United States since February 13, 2001, and that they have been continuously physically present 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 by the Secretary of the Department of Homeland Security, with the latest extension 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 record shows that the applicant filed her TPS application on April 24, 2001. On February 25, 2002, the applicant was provided the opportunity to submit evidence establishing continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States from March 9, 2001, to the filing date of the application. The applicant, in response, provided copies of payment receipts from Queenstown Apartment, Mount Ranier, Maryland dated September 1, 2001 and, copies of pay stubs from American Bldg. Maintenance Co, Alexandria, Virginia dated January 1, 2001 and January 29, 2001.

The director determined that the applicant failed to submit sufficient evidence to establish her continuous residence and continuous physical presence in the United States during the qualifying period. Therefore, the director denied the application.

On motion, the applicant states that she never received any letters requesting documentation and is therefore providing supporting documentation in support of the motion. The applicant submitted:

1. Copies of Western Union money transfer receipt dated February 11, 2001, and May 11, 2001, and a copy of a Bancomercio money transfer receipt dated July 7, 2003.
2. A copy of a medical form dated March 20, 2001.
3. A copy of a document from World Vision dated March 27, 2001.
4. Copies of 2001 and 2002 Internal Revenue Service (IRS) Form W-2, Wage and Tax Statements.
5. A copy of a letter from RSK Co dated November 26, 2001.

The director determined that the applicant submitted evidence with altered dates and found that the grounds of denial had not been overcome. The director, therefore, affirmed the earlier decision and denied the application.

On appeal, the applicant requests that her application be reconsidered because she has to work in order to support her mother and younger sister. The applicant also submits:

6. Letters from [REDACTED] and [REDACTED]
7. Copies of the applicant's employment authorization card issued on June 7, 2001 and her Social Security card.
8. Copies of an envelope sent to the Vermont Service Center dated April 5, 2004, a copy of a Notice from the Vermont Service Center dated April 6, 2004 and an envelope from [REDACTED] addressed to the applicant dated April 10, 2004.
9. A copy of a receipt dated September 15, 2002.
10. A copy of a Western Union money transfer receipt dated May 14, 2002.
11. A copy of a fax cover sheet dated February 28, 2002.
12. A copy of a union grievance document dated March 26, 2002.
13. A copy of an Employer's First Report of Injury or Occupational Disease dated November (date unknown), 2001.
14. Copies of a document from World Vision dated August 27, 2001.
15. A copy of a notice from The Vermont Service Center dated June 7, 2001.

The applicant also resubmitted evidence previously provided, including documentation that appear to have been altered. Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile

such inconsistencies, absent competent objective evidence pointing to where the truth, in fact, lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988).

The receipts provided by the applicant in response to the request for additional evidence are subsequent to the qualifying dates to establish continuous residence and continuous physical presence in the United States during the qualifying period. The number on the Social Security card provided by the applicant indicates that the January 1, 2001 and January 29, 2001 pay stubs provided in response to the request for evidence, are actually for work performed by the applicant. However, the pay stubs are for work that occurred prior to February 13, 2001 and cannot establish the applicant's continuous residence in the United States during the qualifying period.

Mr. [REDACTED] states that the applicant has resided in the United States since she arrived on or about December 2000. Mrs. [REDACTED] states that he has known the applicant for approximately 3 years. However, these statements are not supported by any corroborative evidence. It is reasonable to expect that the applicant would have some type of contemporaneous evidence to support these assertions; however, no such evidence has been provided. Affidavits are not, by themselves, persuasive evidence of residence or physical presence. Of the remaining evidence, the copy of the applicant's employment authorization card indicates an issue date of June 7, 2001 and is the earliest date presented, on appeal, as evidence of the applicant's presence in the United States. This is subsequent to the dates required to establish entry, continuous residence and continuous physical presence during the qualifying period.

The applicant has not submitted sufficient evidence to establish that she has met the criteria for continuous residence 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.

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.