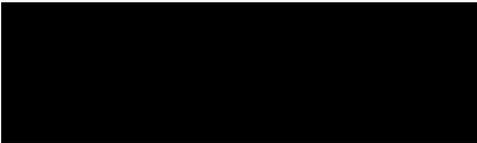




U.S. Citizenship
and Immigration
Services



M1

FILE: [REDACTED] OFFICE: CALIFORNIA SERVICE CENTER DATE: 007 1 2 2005
[WAC 04 094 52074]

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, 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 had failed to submit sufficient evidence to establish that she had continuously resided in the United States since February 13, 2001.

On appeal, the applicant submits a statement and additional evidence.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an alien who is a national of a foreign state 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 § 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 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 term *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.

Persons applying for TPS offered to El Salvadorans must demonstrate 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. A subsequent extension of the TPS designation has been granted by 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).

The record shows that the applicant filed her TPS application on February 10, 2004. In support of her application, the applicant submitted:

1. A copy of an Employment Authorization Card (Category A12) issued to [REDACTED] (the applicant's mother) as evidence that the applicant is the child of an alien currently eligible to be a TPS registrant described in 8 C.F.R. § 244.2(f)(2)(iv).
2. A copy of an immunization record indicating that the applicant received vaccinations from the Victory Medical Group on January 20, 2003, on September 3, 2003, and on November 20, 2003.
3. An affidavit from [REDACTED] dated December 15, 2003, indicating that she has been acquainted with the applicant because in the past the applicant had babysat her daughter, and that she met her in July 2000 when she was introduced by her mother.

In a notice of intent to deny dated January 28, 2003, the applicant was requested to submit additional evidence to establish continuous residence and continuous physical presence in the United States during the requisite period. The director reviewed the evidence furnished and determined that the evidence was insufficient to establish the applicant's continuous residence in the United States since February 13, 2001, and denied the application on July 28, 2004.

On appeal, the applicant asserts that she is eligible for TPS because she is "a dependent on my mother's application." She states that she did not apply during the initial registration period in 2001 because her mother did not have enough money for her application. She further states that because she is a minor supported by her

mother, she has no receipts of any kind, or payment stubs. She submits a copy of an affidavit from [REDACTED] [REDACTED] previously furnished and detailed in No. 2 above. She also submits the following:

4. An affidavit from [REDACTED] dated August 24, 2004, indicating that she has been acquainted with the applicant's mother for many years and that she met the applicant in July 2000 when she arrived in the United States.
5. Another copy of her immunization record listed as No. 3 above, and a copy of another immunization record indicating that the applicant received vaccinations from [REDACTED], on September 3, 2001, on November 20, 2001, and on April 21, 2002.

While [REDACTED] (No. 3 above) stated that the applicant, in the past, babysat her daughter, she failed to supply the dates the applicant worked for her. Additionally, she failed to provide the address where the applicant resided during their acquaintanceship, and how frequently she saw the applicant during the time she claimed to have known her.

The affidavit from [REDACTED] (No. 4 above) merely stated that she met the applicant in July 2000. However, she did not provide the address where the applicant resided during their acquaintanceship, provide any details or specifics regarding the basis of her acquaintanceship with the applicant, where she met the applicant, and how frequently she saw the applicant during the time she claimed to have known her. Furthermore, it is noted that the identity of the Notary Public and the notary stamp are missing from the affidavit; therefore, it is not clear whether the affiant had attested under penalty of perjury.

Regulations at 8 C.F.R. § 244.9(a)(2) do not expressly provide that personal affidavits on an applicant's behalf are sufficient to establish the applicant's qualifying continuous residence or continuous physical presence in the United States. Moreover, the statements provided to establish the applicant's qualifying residence in the United States were not supported by any other corroborative evidence.

Documentation furnished by the applicant establishes that she was physically present in the United States since September 2001 to the date of filing the application. However, no documents were furnished to establish the applicant's continuous residence since February 13, 2001, and continuous physical presence from March 9, 2001, to September 2001.

The applicant has failed to establish that she has met the criteria for continuous residence in the United States since February 13, 2001. 8 C.F.R. § 244.2(c). Additionally, the applicant has failed to establish that she has met the criteria for continuous physical presence in the United States since March 9, 2001. 8 C.F.R. § 244.2(b). Consequently, the director's decision to deny the application 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 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.