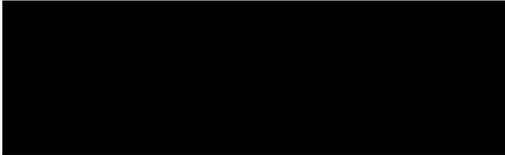


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invasion of personal privacy**



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FILE: [REDACTED]  
[SRC 02 237 52769]

Office: TEXAS SERVICE CENTER

Date: **SEP 30 2005**

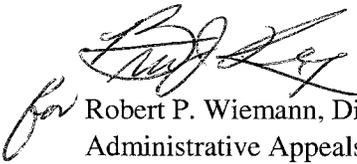
IN RE: Applicant: [REDACTED]

APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT: 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, Texas 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 she had entered the United States prior to February 13, 2001, continuously resided in the United States since February 13, 2001 and been continuously physically present in the United States since March 9, 2001.

On appeal, the applicant submits additional documentation and requests that her case be reviewed.

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).

Upon initial submission, the applicant submitted the following documentation.

1. A copy of her State of North Carolina identification card issued on September 11, 2001.
2. A copy of her El Salvadorian National Identification Card issued abroad on May 30, 2001.

On March 11, 2004, the applicant was requested to submit evidence establishing that she had arrived in the United States prior to February 13, 2001. The applicant, in response, provided the following documentation:

3. A copy of a facsimile sent April 16, 2004 by [REDACTED] who states that the applicant entered the United States on January 10, 2001 and that she lived with her and others in Seattle, Washington and that the applicant took care of her children.
4. A copy of a facsimile sent April 16, 2004 from [REDACTED] who state that the applicant, their niece, resided at their address in Seattle, Washington and that she entered the United States on January 10, 2001.
5. Copies of the applicant's IRS Form W-2, Wage and Tax Statements from Tir-Arc Food Systems, Inc. for 2002.

6. Copies of the applicant's IRS Form W-2, Wage and Tax Statements from Staffmark LLC-East for 2003.

The director determined that the applicant had failed to submit sufficient evidence to establish her eligibility for TPS and denied the application on May 27, 2004.

On appeal the applicant's requests her application be reviewed and submits the following documentation:

7. A copy of the applicant's unsigned medical examination form dated February 7, 2001 from [REDACTED] Well Woman/Family Planning. The address of the corporation is not shown on the document.
8. Copies of two rent receipts issued to the applicant from [REDACTED] dated February 5, 2001 and March 5, 2001.

Affidavits from acquaintances are not, by themselves, persuasive evidence of residence or physical presence. Additionally, the facsimiles (items #3 and #4), the unsigned medical examination form (item #7) and the two rent receipts (item #8) listed above are not credible because the applicant's National Identification Card from El Salvador (item #2) was issued to her while she was abroad on May 30, 2001. The record contains no evidence that the applicant was in El Salvador in May 2001 as a result of a brief, casual, and innocent absence from this country as defined within this section.

It is determined that the applicant has not submitted sufficient evidence to establish her continuous residence or continuous physical presence in the United States during the period from February 13, 2001, until after late May 2001. She has, thereby, 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.