



U.S. Citizenship  
and Immigration  
Services

M

identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy

**PUBLIC COPY**



FILE: [REDACTED] Office: VERMONT SERVICE CENTER Date: **JAN 05 2006**  
[EAC 03 077 54059]

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 establish that she had: 1) entered the United States prior to February 13, 2001; 2) continuously resided in the United States since February 13, 2001; and 3) been continuously physically present in the United States since March 9, 2001.

On appeal, the applicant asserts her claim of eligibility for TPS.

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).

The applicant initially submitted the following documentation along with her TPS application:

1. An affidavit [REDACTED] in which he stated that he had known the applicant since December of 2000;
2. An affidavit [REDACTED] which he stated that he had known the applicant since December of 2000; and,
3. An affidavit from [REDACTED] which she stated that she had known the applicant since December of 2000.

On March 25, 2004, the applicant was requested to submit evidence establishing her continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States since March 9, 2001. The applicant, in response, provided the following documentation:

4. An affidavit from [REDACTED] in which she stated that she has known the applicant since December of 2000, that they are friends, and that she has seen the applicant at least once a week since they met;

5. An affidavit [REDACTED] in which he stated that he has known the applicant since December of 2000, that they are friends, and that he has seen the applicant at least once a week since they met;
6. An affidavit from [REDACTED] in which she stated that she has known the applicant since December of 2000, that they are friends, and that she has seen the applicant at least once a week since they met; and,
7. An affidavit [REDACTED] in which he stated that he has known the applicant since December of 2000, that they are friends, and that he has seen the applicant at least once a week since they met.

The director determined that the applicant had failed to submit sufficient evidence to establish her eligibility for TPS and denied the application on June 1, 2004. The director noted that the applicant's parents indicated on their individual I-821 applications that the applicant resided in El Salvador during the year 2000.

On appeal, the applicant reasserts her claim of eligibility for TPS and resubmits copies of the affidavits signed by [REDACTED]

The applicant has not submitted sufficient evidence to establish her qualifying continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States since March 9, 2001. The applicant has failed to provide evidence to explanation the discrepancies in the record demonstrating her presence and residence in El Salvador during 2000 rather than in the United States.

There has been no corroborative evidence submitted to support the statements made by the affiants regarding the applicant's claimed presence in the United States since December of 2000. It is reasonable to expect that the applicant would have some type of contemporaneous evidence to support these assertions; however, no evidence has been provided. Affidavits are not, by themselves, persuasive evidence of continuous residence or continuous physical presence. Without corroborative evidence, the affidavits from acquaintances do not substantiate clear and convincing evidence of the applicant's continuous residence and continuous physical presence in the United States. Moreover, affidavits are only specifically listed as acceptable evidence for proof of employment, and attestations by churches, unions, or other organizations of the applicant's residence as described in 8 C.F.R. §244.9(2)(i) and (v).

The applicant has failed to establish that she has met the continuous residence and continuous physical presence 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. The application will be denied for the above reasons, with each considered as an independent and alternative basis for denial.

**ORDER:** The appeal is dismissed.