



U.S. Citizenship
and Immigration
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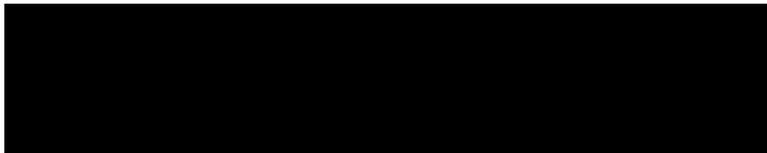
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FILE: [REDACTED]
[SRC 02 058 52669]

OFFICE: VERMONT SERVICE CENTER

DATE: JUN 05 2006

IN RE: Applicant:



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, Chief
Administrative Appeals Office

DISCUSSION: The application, which was filed at the Texas Service Center, 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 had failed to establish that she had continuously resided in the United States since February 13, 2001, and had been continuously physically present from March 9, 2001, to the date of filing the application.

On appeal, the applicant submits 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. Subsequent extensions of the TPS designation have been granted, with the latest extension valid 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 December 12, 2001. Because evidence furnished with her application was insufficient to establish eligibility, the applicant was requested on February 7, 2005, to submit additional evidence to establish continuous residence in the United States since February 13, 2001, and continuous physical presence from March 9, 2001, to the date of filing the application. The director noted that the evidence furnished, in response, did not show that she had established a residence as of February 13, 2001, since no address was given on any of the evidence submitted. The director, therefore, denied the application on March 28, 2005.

On appeal, the applicant submits:

1. A copy of Form W-2, Wage and Tax Statement for \$2,018.24 in wages received from Lark Food Services, Dallas, Texas, during the year 2000.
2. A copy of "Page 1 of 6" of an Apartment Lease Contract between the applicant and Silverado Apartments for rental of Apartment No. [REDACTED] the term to begin on August 1, 2000 and ends February 28, 2001, for the amount of \$650 a month, and that the applicant will be the only person occupying this apartment.
3. A copy of a "Resident Ledger" dated June 24, 2000, for rent, water, gas, and electric charges from the period April 1, 2000 through June 3, 2000. The ledger shows a "Move In Date" of January 26,

2000. The applicant's name and address [REDACTED] appeared on the ledger; however, the name of the renter was not listed on the ledger.

The evidence furnished by the applicant in an attempt to establish continuous residence and continuous physical presence in the United States during the requisite period cannot be found to be credible. The applicant submitted an incomplete and unsigned lease contract (No. 2 above). The ledger (No. 3 above) shows a move-in date of January 26, 2000, and the name of the renter was not included on the ledger. If this ledger relates to the lease contract (No. 2 above), it is noted that the initial term of the lease was to begin August 1, 2000. It is also noted that the applicant's name and address on the ledger was typed in a different font than that of the surrounding text. Although it may not be relevant, it is further noted that the applicant had just turned 18 years of age on the date of the lease contract (July 30, 2000), and while the monthly rental was \$650, the Form W-2 (No. 1 above) shows she only earned \$2,018.24 in wages for the year 2000. Most importantly, the record contains an "Affidavit of Residency" dated December 1, 2001, from [REDACTED] indicating that the applicant has been residing at his apartment (111 Tejas Trl. Apt. #504-F, Richardson, Texas) since May 5, 1998 to the present time (December 1, 2001).

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 applicant has failed to submit any objective evidence to explain or justify the discrepancies in the evidence presented. Therefore, the reliability of the remaining evidence offered by the applicant is suspect, and it must be concluded that the applicant has failed to satisfy the continuous residence and continuous physical presence requirements for TPS.

The applicant has failed to establish that she has met the criteria for continuous residence since February 13, 2001, and continuous physical presence since March 9, 2001, as described in 8 C.F.R. § 244.2(b) and (c). 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.