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U.S. Citizenship
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FILE: [REDACTED]
[EAC 02 184 52679]

Office: VERMONT SERVICE CENTER

Date: NOV 06 2006

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.

Robert P. Wiemann, Chief
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 claims to be a native and citizen of El Salvador who is applying for 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 continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States since March 9, 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 applicant who is a national of a foreign state designated by the Attorney General 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 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. 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, 2007, upon the applicant's re-registration during the requisite period.

The burden of proof is upon the applicant to establish that 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 her burden of proof the applicant must provide supporting documentary evidence of eligibility apart from her own statements. 8 C.F.R. § 244.9(b).

The applicant indicated on her Form I-821, Application for Temporary Protected Status, that she entered the United States without inspection in July 2000. In support of her application, the applicant submitted the following evidence:

1. a photocopy of a Bank of America monthly savings account statement dated November 21, 2000 and a photocopy of a Bank of America monthly savings account statement for the period ending September 30, 2000;
2. photocopies of ADP earnings statements from [REDACTED] in Washington, D.C., dated October 25, 2000 and November 20, 2000.

The director determined that the applicant had failed to submit sufficient evidence to establish her qualifying continuous residence and continuous physical presence in the United States during the requisite periods and denied the application on January 20, 2005.

On appeal, the applicant states that she has lived in the United States since July 2000. The applicant submits the following evidence:

3. a photocopy of a mailing envelope postmarked August 22, 2000;
4. a photocopy of a DirecTV billing statement dated July 13, 2001, and a letter from DirecTV dated November 19, 2001;
5. a photocopy of a letter dated November 16, 2001, from Mosaic Federal Credit Union in Harrisonburg, Virginia;
6. a photocopy of a letter dated October 22, 2001, from Trigon Blue Cross and Blue Shield in Richmond, Virginia;
7. a photocopy of a CellularOne billing statement dated July 14, 2001;
8. a photocopy of the applicant's 2002 Internal Revenue Service (IRS) Form 1040, U.S. Individual Income Tax Return; and,
9. a photocopy of the applicant's 2003 IRS Form 1040, along with photocopies of the applicant's 2003 IRS Forms W-2, Wage and Tax Statement, from Cargill Incorporated and from Unicare Life and Health Insurance Company.

The Bank of America savings account statements (No. 1 above), the ADP earnings statements (No. 2 above), and the mailing envelope postmarked August 22, 2000 (No. 3 above) are all dated prior to the requisite periods to establish continuous residence and continuous physical presence in the United States.

The applicant's 2002 and 2003 federal income tax returns are not sufficient to establish the applicant's qualifying continuous residence and continuous physical presence in the United States because they do not reflect the applicant's exact dates of residence and employment during those years.

Additionally, there are various discrepancies in the evidence submitted in support of the application. 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. Further, it is incumbent on 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 lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582. (Comm. 1988).

It is determined that the documentation submitted by the applicant is not sufficient to establish that she satisfies the continuous residence and continuous physical presence requirements described in 8 C.F.R. § 244.2(b) and (c). Consequently, the director's decision to deny the application for TPS for these reasons will be affirmed.

Beyond the decision of the director, the applicant has not provided sufficient evidence to establish her identity and nationality. 8 C.F.R. § 244.9(a)(1). Therefore, the application also must be denied for this reason.

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 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.