

PUBLIC COPY

**identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy**



**U.S. Citizenship
and Immigration
Services**

MM

FILE:

[EAC 02 278 51327]

Office: VERMONT SERVICE CENTER

Date: **OCT 31 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.

A handwritten signature in black ink, appearing to read "R. Wiemann".

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 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 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 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 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 § 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.

- (g) Has filed an application for late registration with the appropriate Service director, within a 60-day period immediately following the expiration or termination of conditions described in paragraph (f)(2) of this section.

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. 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 granted until September 9, 2007, upon the applicant's re-registration during the requisite time period.

The initial registration period for Salvadorans was from March 9, 2001, through September 9, 2002. The record reveals that the applicant filed her initial application with the Immigration and Naturalization Service, now Citizenship and Immigration Services (CIS), on September 9, 2002.

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:

1. a photocopy of a Washington Gas billing statement dated November 22, 2000; and,
2. photocopies of District of Columbia Water & Sewer billing statements dated October 30, 2000 and January 22, 2001.

On August 11, 2003, the applicant was requested to submit additional evidence to establish her qualifying continuous physical presence in the United States during the requisite periods. The applicant, in response, submitted the following:

3. an affidavit dated August 23, 2003, from [REDACTED] stating that she has been the applicant's hair stylist since September 2000;
4. a photocopy of the applicant's Virginia Identification Card issued on August 9, 2001;
5. a photocopy of an eyeglass prescription dated October 18, 2000, from Dr. [REDACTED] Harrisonburg, Virginia;
6. a photocopy of a receipt from Dr. [REDACTED] dated October 18, 2000; and,
7. an affidavit dated August 23, 2003, from [REDACTED] stating that the applicant provided child care for his children from March 2001 through December 2001.

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 December 21, 2004.

On appeal, the applicant submits the following:

8. a photocopy of a billing statement dated November 8, 2001, from Rockingham Memorial Hospital in Harrisonburg, Virginia;
9. photocopies of earnings statements from [REDACTED] for the pay periods ending November 18, 2000 and March 10, 2001;
10. a photocopy of a letter from Blue Cross/Blue Shield letter authorizing the applicant's admission to Rockingham Memorial Hospital on September 26, 2001;
11. a photocopy of a Western Union money transfer receipt dated September 30, 2000; and,
12. a photocopy of a City of Harrisonburg, Virginia, Application for Utility Service dated December 16, 2002.

The Washington Gas billing statement (No. 1 above), the District of Columbia Water & Sewer Authority billing statements (No. 2 above), the eyeglass prescription and receipt from Dr. [REDACTED] (Nos. 5 and 6 above), the [REDACTED] earnings statement dated November 18, 2000 (No. 9 above), and the Western Union money transfer receipt (No. 11 above) are all dated prior to the requisite periods to establish continuous residence and continuous physical presence in the United States.

Without corroborative evidence, the affidavits from Ms. [REDACTED] (No. 3 above) and Mr. [REDACTED] (No. 7 above) are not sufficient to establish the applicant's qualifying continuous residence and continuous physical presence. Moreover, affidavits are only specifically listed as acceptable evidence of employment and membership in organizations such as churches or labor unions as described at 8 C.F.R. § 244.9(a)(2)(i) and (v).

The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. 8 C.F.R. § 244.9(b). The applicant has not submitted sufficient evidence to establish her qualifying continuous residence and continuous physical presence in the United States throughout the requisite periods. She has, therefore, failed to establish that she satisfies the residence and physical presence requirements described in 8 C.F.R. § 244.2(b) and (c). Consequently, the director's decision to deny the application for temporary protected status will be affirmed.

Beyond the decision of the director, the applicant has not provided an official Salvadoran photo identification document to establish her identity and nationality as described at 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 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.