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U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529

U.S. Citizenship and Immigration Services

[redacted]

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FILE: [redacted] [WAC 01 245 51054] Office: Nebraska Service Center Date: SEP 0 5 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, Nebraska Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The applicant is stated 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 her date of entry prior to February 13, 2001, her continuous residence since February 13, 2001, and her continuous physical presence in the United States since March 9, 2001.

On appeal, the applicant asserts her claim of eligibility for TPS and submits evidence in support of her claim.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an applicant is eligible for TPS 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.

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 validity until September 9, 2007, 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).

On November 19, 2003, the applicant was requested to submit evidence establishing her date of entry to the United States as of February 13, 2001, her continuous residence in the United States since February 13, 2001, and her continuous physical presence in the United States since March 9, 2001. In response, the applicant submitted copies of her El Salvadoran birth certificate along with an English translation, and some evidence in an attempt to establish her qualifying date of entry, continuous residence and continuous physical presence in the United States. On February 17, 2004, the director denied the application because the applicant failed provide sufficient evidence to establish her eligibility for TPS.

On appeal, the applicant provides the following documentation in support of her claimed continuous residence and continuous physical presence in the United States during the requisite time periods:

1) A copy of a registration form from the Los Angeles Unifed School District dated November 25, 1996;
2) Copies of achievement awards from Belmont Community Adult School in Los Angeles dated August 22, 1996 and November 21, 1996;

3) Copies of certificates from in San Gabriel, California, dated October 26, 1997, December 15, 2000, March 27, 2001, and July 13, 2001, bearing the names of and
4) A copy of an undated affidavit from who stated that the applicant has resided in the United States since 1997;
5) A copy of the applicant's identification card from Belmont Community Adult School bearing an expiration date of June 1997;
6) Copies of two certificates of achievement from the Azusa Pacific University dated March 2, 1998 and July 27, 1998;
7) A copy of notarized letter dated March 8, 2004, from who stated that he had known the applicant for three years and that the applicant was a member of the Templo de Poder Church in Los Angeles, California, during the months of February through April 2001;
8) A copy of another notarized letter dated March 8, 2004, from who stated that he had known the applicant for ten years and that the applicant was a member of the Templo de Poder Church in Los Angeles, California, during the months of March and April 2001;
9) A copy of a notarized letter dated March 10, 2004, from who stated that the applicant was a student at the Instituto Wesleyano Hipanoamericano during the Spring of 2001;
10) A copy of a letter from who stated that the applicant provided child care since March 1999;
11) A copy of a money transfer receipt dated March 19, 2001, from the Banco De El Salvador;
12) Copies of two Certified Mail Receipts from the United States Postal Service dated March 15, 2001 and June 21, 2001;
13) Copies of two forms dated August 3, 2001 and August 10, 2001, regarding the applicant's change of address;
14) Copies of her driver's licenses applications dated January 15, 2002 and March 22, 2003;
15) Copies of several earnings statements from SoyGenetics, LLC, reflecting dates from March 22, 2002, to July 12, 2002;
16) Copies of course transcripts dated October 1, 2002, May 29, 2003, and February 10, 2004, from The Wesleyan Church, Indianapolis, Indiana;
17) A copy of certificates from FLAMA of The Wesleyan Church dated August 2003, January 2004, and April 2004;
18) Copies of earnings statements from Pearson, Paramus, New Jersey, reflecting dates of December 22, 2002, December 29, 2002, and January 5, 2003;
19) Copies of earnings statements from Ardente Dental, PSC, dated July 11, 2003, August 8, 2003, September 5, 2003, June 25, 2004, August 20, 2004, September 17, 2004, November 26, 2004, May 27, 2005, and June 9, 2005.

The statements provided by the regarding the applicant's claimed continuous residence and continuous physical presence in the United States, as detailed in Nos. 7, 8, and 9 above, are not supported by corroborative evidence during the beginning of the requisite time periods for El Salvador TPS. It is also noted that stated that he knew the applicant for three years in his letter detailed in No. 7 above, and also stated that he knew the applicant for ten years in his other letter as detailed in No. 8. In addition, the certificates, as detailed in Nos. 3 and 6 above, although they bear the applicant's name, these documents do not provide where the applicant resided or other identifying information such as the applicant's date of birth and complete name or

her address. The copies of evidence as detailed in Nos. 1, 2, and 6, predate the beginning of the requisite time periods for El Salvador TPS. In addition, the copy of the affidavit from as detailed in No. 10, is not supported by contemporaneous evidence such as payments for the applicant's services. There is a gap in the credible evidence between February 13, 2001 and the date she filed her application for TPS (March 18, 2001). The remaining evidence as detailed in Nos. 11 to 19 above, post-date the beginning of the requisite time periods for continuous residence and continuous physical presence in the United States. The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. 8 C.F.R. § 244.9(b). 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 temporary protected status will be affirmed.

Beyond the decision of the director, it also is noted that the applicant has provided insufficient evidence to establish that she is a national or citizen of El Salvador. 8 C.F.R. § 244.9, states that each application for TPS must be accompanied by evidence of the applicant's identity and nationality.

Sec. 244.9 Evidence.

> (a) *Documentation.* Applicants shall submit all documentation as required in the instructions or requested by the Service. The Service may require proof of unsuccessful efforts to obtain documents claimed to be unavailable. If any required document is unavailable, an affidavit or other credible evidence may be submitted.
>
> > (1) *Evidence of identity and nationality.* Each application must be accompanied by evidence of the applicant's identity and nationality, if available. If these documents are unavailable, the applicant shall file an affidavit showing proof of unsuccessful efforts to obtain such identity documents, explaining why the consular process is unavailable, and affirming that he or she is a national of the designated foreign state. A personal interview before an immigration officer shall be required for each applicant who fails to provide documentary proof of identity or nationality. During this interview, the applicant may present any secondary evidence that he or she feels would be helpful in showing nationality. Acceptable evidence in descending order of preference may consist of: (Amended 11/16/98; 63 FR 63593)
> >
> > > (i) Passport;
> > >
> > > (ii) Birth certificate accompanied by photo identification; and/or
> > >
> > > (iii) Any national identity document from the alien's country of origin bearing photo and/or fingerprint.

The applicant has provided a copy of her birth certificate along with an English translation as evidence of her identity; however, pursuant to 8 C.F.R. § 244.2(a)(1), the applicant must also provide photo identification. Therefore, the application will also be denied for this reason.

It is also noted that the applicant was granted voluntary departure from the United States until December 17, 1997, by an immigration judge, Los Angeles, California, based upon her apprehension in Las Vegas, Nevada, on June 13, 1996.

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.