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FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: DEC 28 2007  
[WAC 05 229 73546 and SRC 03 060 52517 as it relates to SRC 01 168 55750]

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:  
[REDACTED]

**INSTRUCTIONS:**

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the California Service Center. 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 initial application was denied by the Director, Texas Service Center. A subsequent application for re-registration was denied by the Director, California Service Center, and is currently before the Administrative Appeals Office (AAO) on appeal. The initial application will be reopened, *sua sponte*, by the Chief, Administrative Appeals Office. The appeal will be sustained and the applications will be approved.

The applicant is a 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 applicant filed an application for TPS during the initial registration period under receipt number SRC 01 168 55750. The Director, Texas Service Center, denied the initial application on October 24, 2002, due to abandonment, because the applicant failed to respond to the director's request for evidence. The director sent a Notice of Intent to Deny to the applicant on March 26, 2004. The applicant responded to the notice on April 28, 2004.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on May 17, 2005, and indicated that she was re-registering for TPS.

The director denied the re-registration application after determining that the applicant's initial TPS application had been denied and the applicant was therefore not eligible to apply for re-registration for TPS.

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. A subsequent extension of the TPS designation has been granted with validity until March 9, 2009, 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 submitted the following documentation on appeal:

1. A copy of the applicant's IRS Form 1040, U.S. Individual Income Tax Return for the 2000 tax year which is dated January 31, 2001;
2. A copy of the applicant's temporary permit issued to her by the Texas Department of Public Safety on March 9, 2001;

3. A copy of the applicant's Reliant Energy Service bill dated January 11, 2001 through February 13, 2001;
4. Copies of the applicant's hospital bills from [REDACTED] dated July 25, 2001, October 5, 2001, and November 5, 2001;
5. Copies of the applicant's medical records from Harris County Hospital District dated October 5, 2001, and November 21, 2001;
6. A copy of the applicant's daughter's birth certificate announcing her birth in the state of Texas on November 21, 2001; and,
7. A copy of the applicant's child's immunization records from November 22, 2001, to January 30, 2003.

The applicant also submitted documentation to establish her residence and physical presence in the United States during 2002, 2003, and 2004.

The applicant has submitted sufficient credible evidence to establish her qualifying continuous residence since February 13, 2001, and her continuous physical presence in the United States since March 9, 2001. Consequently, the director's decision to deny the application for TPS will be withdrawn.

The record of proceedings contains sufficient evidence to establish the applicant's eligibility for TPS and does not reflect any grounds that would bar her from receiving TPS. Therefore, the director's decision will be withdrawn and the initial application will be approved.

The director's denial of the applicant's TPS application receipt number WAC 05 229 73546, filed on May 17, 2005, is dependent upon the adjudication of the initial application. Since the initial application is being approved, the appeal from the denial of the May 17, 2005 application will be sustained and that application will also be approved.

**ORDER:** The application is reopened and the director's denial of the initial application is withdrawn. The initial application and the re-registration application are both approved, and the appeal will be sustained.