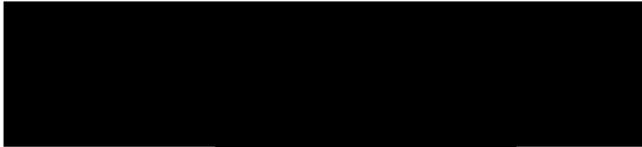




U.S. Citizenship  
and Immigration  
Services

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FILE:



[EAC 03 055 53190]

Office: VERMONT SERVICE CENTER

Date: **JAN 30 2007**

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 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 failed to establish that she had continuously resided in the United States since February 13, 2001; and had been continuously physically present in the United States since March 9, 2001.

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. An extension of the program for El Salvadorans was granted from September 9, 2003 until March 9, 2005. 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 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 June 17, 2003, the applicant was requested to submit evidence establishing her continuous residence since February 13, 2001, and continuous physical presence since March 9, 2001, in the United States. The applicant, in response, provided the following documentation:

1. An affidavit from [REDACTED] in which she stated that she has known the applicant for a year;
2. An affidavit from [REDACTED] in which she stated that she has known the applicant for one year;
3. An affidavit from [REDACTED] in which he stated that he has known the applicant since January of 2001;
4. A copy of a business card from Royal Jewelry Clothing Gift Shop bearing the name of [REDACTED];
5. A letter from the Pastor of [REDACTED] in which he stated that the applicant has been a member of the church since January of 2001; and,
6. A copy of a medical billing statement from Massachusetts General Hospital dated October 21, 2002, and bearing the applicant's name as patient.

The director determined that the applicant had failed to submit sufficient evidence to establish her eligibility for TPS and denied the application on August 22, 2003.

The applicant filed an appeal on September 16, 2003. The AAO remanded the case to the Vermont Service Center on April 12, 2005, because the director had failed to state specific reasons for the TPS denial.

On May 25, 2005, the director denied the TPS application because the applicant had failed to submit sufficient evidence to establish her continuous residence and continuous physical presence in the United States during the requisite time periods.

On appeal, the applicant reasserts her claim of eligibility for TPS and submits the following documentation:

7. A copy of the applicant's school records from Northeast Metropolitan Regional Vocational School District for the 2002 through 2003 school year.

The applicant has not submitted any evidence to establish her qualifying continuous residence and continuous physical presence in the United States during the requisite periods. There has been no corroborating evidence submitted to support the statements made by the pastor of the [REDACTED]. The statements made by the affiants regarding the applicant's claimed presence in the United States before February 13, 2001, are not supported by any corroborative evidence. It is reasonable to expect that the applicant would have some type of contemporaneous evidence to support these assertions; however, no such evidence has been provided. Affidavits are not, by themselves, persuasive evidence of residence or physical presence. The applicant's school records are dated subsequent to the requisite time periods and will not be considered as evidence to establish the applicant's eligibility.

All other evidence submitted by the applicant is dated subsequent to the requisite time periods. The applicant has failed to establish that she has met the continuous residence and continuous physical presence criteria described in 8 C.F.R. §§ 244.2(b) and (c). Consequently, the director's decision to deny the application for TPS will be affirmed.

It is noted that the applicant has not submitted any evidence to establish her eligibility for late registration. The applicant's TPS application was received by the Vermont Service Center on September 10, 2002. For this additional reason, the TPS application will be denied.

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. The application will be denied for the above reasons, with each considered as an independent and alternative basis for denial.

**ORDER:** The appeal is dismissed.