

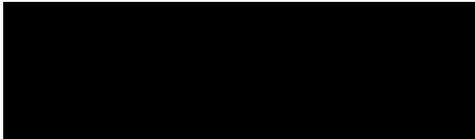
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U.S. Department of Homeland Security  
20 Mass. Ave., N.W., Rm. 3000  
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U.S. Citizenship  
and Immigration  
Services

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FILE:



[EAC 01 221 51363]

Office: VERMONT SERVICE CENTER

Date: MAR 02 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 "Robert P. 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 August 22, 2005, 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. A copy of a receipt from United Audio dated December 24, 2000, and bearing the applicant's name as customer;
2. An affidavit from [REDACTED] in which he stated that he has known the applicant since December of 2000 and that they lived in the same apartment at [REDACTED] New York, during that time;
3. An affidavit from [REDACTED] in which he stated that he has known the applicant since December of 2000 and that they lived in the same apartment building at [REDACTED] Freeport, New York, during that time;
4. An affidavit from [REDACTED] in which he stated that he has known the applicant since December of 2000 and that the applicant lived in the same apartment building in Freeport, New York, with him and then moved with him and his wife to [REDACTED], Freeport, New York, from 2002 to June of 2005; and,

5. Copies of Verizon telephone bills dated May and June of 2002.

The director determined that the applicant had failed to submit sufficient evidence to establish \*his eligibility for TPS and denied the application on November 3, 2005.

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

6. A letter from [REDACTED] in which he stated that he rented a room located at [REDACTED], Uniondale, New York, to the applicant from December of 2000 to March of 2001;
7. Photocopies of rent receipts bearing the applicant's name as tenant, signed by [REDACTED] as landlord, and dated January 3, 2001 and March 2, 2001; and,
8. A copy of a letter from the Outreach Director of Our Holy Redeemer, R.C. Church in which he stated that the applicant is a member of the Parish Community since January of 2001.

The applicant has not submitted sufficient evidence to establish her qualifying continuous residence and continuous physical presence in the United States during the requisite time periods. [REDACTED] states in number 6 above that the applicant rented a room from him at [REDACTED] Uniondale, New York, from December of 2000 until March of 2001. In contrast, the affiants in numbers 2, 3, and 4 above stated that the applicant resided at [REDACTED] New York since December of 2000, and moved with [REDACTED] and his wife in 2002 to [REDACTED] New York. 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. It is incumbent upon 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 (BIA 1988). The applicant has failed to submit any objective evidence to explain or justify the inconsistencies. In addition, the reliability of the remaining evidence offered by the applicant is suspect.

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.

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.