



U.S. Citizenship
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FILE: [REDACTED]
[WAC 02 202 54261]

OFFICE: CALIFORNIA SERVICE CENTER

DATE: OCT 30 2007

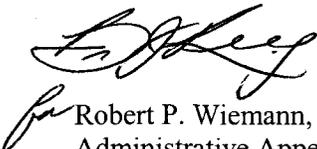
IN RE: Applicant: [REDACTED]

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, California 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 had failed to submit sufficient evidence to establish that she had continuously resided in the United States since February 13, 2001.

On appeal, the applicant submits a statement and additional evidence.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an alien who is a national of a foreign state designated by the Attorney General 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 8 C.F.R. § 244.4; and
- (f)
 - (1) Registers for TPS 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 term *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.

The term *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.

Persons applying for TPS offered to El Salvadorans must demonstrate that they have continuously resided in the United States since February 13, 2001, and that they have been continuously physically present 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 valid 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 record shows that the applicant filed her initial TPS application on June 7, 2002. The director noted that as evidence to support the application, the applicant submitted copies of school transcripts from Cannon Middle School, Las Vegas, Nevada, showing that the applicant had attended school from August 30, 2001 to January 25, 2002. The director, therefore, concluded that the evidence furnished was insufficient to establish that the applicant had continuously resided in the United States since February 13, 2001, and denied the application on June 7, 2004.

On appeal, the applicant's mother asserts that the applicant came to the United States in 2001, and has remained here under her care. She submits:

1. An affidavit dated June 24, 2004, from [REDACTED] indicating that the applicant was physically present in the United States as of December 2000, and that he and his wife financially helped the applicant to come and live in the United States.
2. An affidavit dated June 24, 2004, from [REDACTED] indicating that the applicant is her niece, and that she was informed around November 2000 that the applicant and her sister were coming to the United States and that they arrived in December 2000.
3. An affidavit dated June 21, 2004, from [REDACTED] indicating that he has known the applicant since February 14, 2001, and that the applicant was physically present in the United States as of February 14, 2001. He stated that he saw the applicant for the first time when the applicant and her sister arrived in Las Vegas, Nevada, when he was invited to attend a family/friend reunion.
4. An affidavit dated June 24, 2004, from [REDACTED] indicating that she has known the applicant since February 14, 2001, and that the applicant was physically present in the United States as of February 14, 2001. She stated that at the time of the applicant's arrival, a reunion was held at the residence of the applicant's mother to celebrate the arrival of her daughters.

The inconsistencies of the above statements regarding the applicant's entry into the United States raise questions of credibility. While [REDACTED] (No. 1 above) and [REDACTED] (No. 2 above) both stated that the applicant was in the United States in December 2000, it is noted that the applicant indicated on her TPS application that her date of entry into the United States was in 2001, and that she had been under immigration proceedings in Arizona when she was detained and later released in 2001. Her mother, on appeal, reaffirmed the 2001 entry date of the applicant.

Additionally, it is noted that the handwriting on each of the "fill-in-the-blank" affidavits (Nos. 1, 2, 3, and 4 above) is identical. As such, these documents appear to have been prepared for the affiants rather than by the affiants. Regulations at 8 C.F.R. § 244.9(a)(2) do not expressly provide that personal affidavits on an applicant's behalf are sufficient to establish the applicant's qualifying continuous residence or continuous physical presence in the United States. Moreover, the statements provided to establish the applicant's qualifying residence in the United States were not supported by any other corroborative evidence.

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, in fact, lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988). 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 documents noted above are not considered credible and greatly reduce the credibility of other documents contained in the record of proceeding.

The applicant claimed to have entered the United States in 2001. The applicant, however, has failed to submit credible evidence to establish that she was, in fact, in the United States on February 13, 2001, during the requisite period required to establish continuous residence. The only documentary evidence provided by the applicant to establish her presence in the United States was her school transcript from Cannon Middle School, Las Vegas, Nevada, showing that the applicant had attended school from August 30, 2001 to January 25, 2002.

Accordingly, the applicant has failed to establish that she has met the criteria for continuous residence in the United States since February 13, 2001. 8 C.F.R. § 244.2(c). Additionally, the applicant has failed to establish that she has met the criteria for continuous physical presence in the United States since March 9, 2001. 8 C.F.R. § 244.2(b). Consequently, the director's decision to deny the application will be affirmed.

Beyond the decision of the director, it is noted that although the record of proceeding contains an El Salvadoran birth certificate and English translation, the certificate was not accompanied by photo identification to establish the applicant's nationality and identity as required by 8 C.F.R. § 244.9(a)(1). Therefore, the application will also 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.