



U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
[EAC 01 257 55359]

Office: VERMONT SERVICE CENTER

Date: FEB 05 2008

IN RE: Applicant:

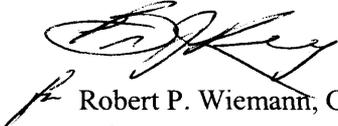


APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration
and Nationality Act, 8 U.S.C. § 1254

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.


Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Vermont Service Center (VSC), and is now before the Administrative Appeals Office (AAO) on appeal. The appeal is sustained.

The applicant is a native and citizen of El Salvador who seeks 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 qualifying continuous residence and continuous physical presence in the United States.

On appeal, the applicant reasserts her claim and submits additional documents.

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 as 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 section 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 physically present*, as used 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 term *continuously resided*, as used 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 Salvadorans must demonstrate entry on or prior to February 13, 2001, 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 by the Secretary of the Department of Homeland Security, with the latest extension granted until September 9, 2006, 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 September 12, 2002, the director asked the applicant to submit evidence establishing her residence since February 13, 2001 and physical presence since March 9, 2001, in the United States. In response, the applicant submitted unnotarized, handwritten rent receipts, apparently signed by the same person, dated from January 2, 2001 through January 8, 2002. The applicant also submitted pay stubs issued in her name, from Tenax Corporation, dated from January 24, 2002 to May 2, 2002. The director stated that the rent receipts the applicant submitted were not notarized and noted that although the receipts seemed to be handwritten by the same person, the applicant had changed her mailing address during the time period when the receipts were issued. In addition, the director stated that the remaining evidence the applicant submitted, her pay stubs from Tenax Corporation, only established her presence in the United States from January 2002 to May 2002.

The director concluded that the evidence presented was not sufficient to establish the applicant's continuous residence and continuous physical presence in the United States and denied the application.

On appeal, the applicant addresses the director's concern about the rent receipts and submits additional documentation. The applicant explains that the rent receipts have the same signature on them because she had the same landlord at the two different addresses and paid the same amount of rent at both addresses. She submits an employment verification letter, on original letterhead, and an original business card from Tenax Corporation, along with photocopies of additional pay stubs pay from Tenax Corporation for the following pay periods:

1. March 4, 2001 to March 17, 2001;
2. May 13, 2001 to May 26, 2001;

3. March 17, 2002 to March 30, 2002; and,

4. March 31, 2001 to April 13, 2002;

The pay receipts reveal that the applicant was employed in 2001 from at least March 4, 2001. The pay receipt for the March 4, 2001, to March 17, 2001, pay period shows earnings of \$857.58 for that period and year-to-date earnings of \$1,479.18, which indicates that the applicant worked for that employer during an unspecified period prior to March 4, 2001. The pay receipts are all addressed to the applicant at [REDACTED] Maryland, 21205, an address the applicant has provided to the director in the past. The original letter, along with the attached business card, from the applicant's employer corroborates the applicant's employment at that location in 2001. [REDACTED] identified as the production manager at Tenax Corporation, issued the employment letter. According to [REDACTED], the company employed the applicant in its packing department beginning in January 2001. These documents establish that the applicant continuously resided in the United States since February 13, 2001. Consequently, the applicant has submitted sufficient evidence to establish that she has met the criteria described in 8 C.F.R. § 244.2(b) and (c). Little weight was given to the rent receipts as they are not supported by any other corroborative evidence, such as a notarized affidavit from the landlord, and contemporaneous financial documentation from the landlord.

The applicant has submitted sufficient evidence to establish that she has met the residence and physical presence requirements described in 8 C.F.R. §§ 244.2(b) and (c).

An alien applying for TPS has the burden of proving that he or she meets the requirements listed above and is otherwise eligible under the provisions of section 244 of the Act. The applicant has met this burden.

ORDER: The appeal is sustained and the application is approved.