

Identifying data deleted to prevent clearly unwarranted invasion of personal privacy

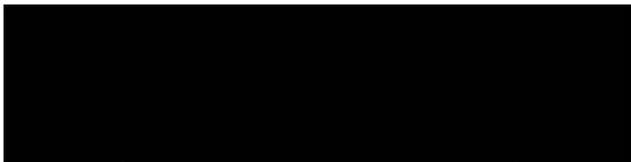
U.S. Department of Homeland Security  
20 Mass. Ave., N.W., Rm. 3000  
Washington, DC 20529



U.S. Citizenship and Immigration Services

**PUBLIC COPY**

M1



FILE: [REDACTED] Office: VERMONT SERVICE CENTER Date: **JAN 22 2008**  
[EAC 02 21852074]

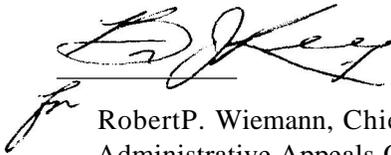
INRE: Applicant: [REDACTED]

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 office that originally decided your case. Any further inquiry must be made to that office.

  
for Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, Vennont Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The decision of the director will be withdrawn, and the appeal will be sustained.

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 submits a brief statement and additional documentation.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an applicant is eligible for TPS 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 § 244.4; and
- (t)
  - (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.

(g) Has filed an application for late registration with the appropriate Service director, within a 60-day period immediately following the expiration or termination of conditions described in paragraph (f)(2) of this section.

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. 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 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 her burden of proof the applicant must provide supporting documentary evidence of eligibility apart from her own statements. 8 C.F.R. § 244.9(b).

The applicant filed her initial Form I-821, Application for Temporary Protected Status, on June 19, 2002. In support of her initial application, the applicant submitted:

1. A photocopy of her social security card;
2. A photocopy of her Employment Authorization Document, issued on July 28, 2000;
3. Photocopy of earnings statements dated July 16, 2001 and December 31, 2001; and
4. Photocopies of her children's birth certificates showing **that** and were born in Manassas, Virginia, on September 14, 1994, and January 16, 1996, respectively.

On February 9, 2004, the director requested the applicant to submit evidence establishing her qualifying continuous residence and continuous physical presence in the United States during the requisite time periods. The applicant was informed that such evidence may include, but was not limited to, employment or school records, rent/mortgage payment receipts, bank or insurance documents, medical or utility bills, or other similar materials. The record reflects that the applicant failed to respond to the director's request.

The director determined that the applicant had failed to submit sufficient evidence to establish her qualifying continuous residence in the United States since February 13, 2001, and continuous physical presence since March 9, 2001. The director denied the application on May 27, 2004.

On **appeal**, the applicant states that she previously submitted old pay stubs and other documentation as evidence of her residence in the United States. In support of the **appeal**, the applicant submits the following additional documentation:

5. Photocopies of Nationwide insurance bills, dated January 12, 2001, and May 20, 2001;
6. A photocopy of Toyota lease agreement, dated May 19, 2001;
7. Her 2001 Internal Revenue Service (IRS) Form W-2, Wage and Tax Statement; and,
8. An unsigned photocopy of her and her husband's 2000 IRS Form 1040, U.S. Individual Income Tax Statement, dated March 6, 2001.

A review of the applicant's file (including consolidated files **\_\_and\_\_** reflects that it also contains a photocopy of her El Salvadoran birth certificate, with English translation; a photocopy of her El Salvadoran personal identification card (*cédula*); and, documentation regarding her residence and physical presence in the United States from 1990 to 1998.

Based on the evidence provided, it is concluded that the applicant has overcome the director's reasons for denial of the application. There are no other known grounds of ineligibility; therefore, the director's decision will be withdrawn and the appeal will be sustained.

An alien applying for Temporary Protected Status has the burden of proving that she meets the requirements enumerated above and is otherwise eligible under the provisions of section 244 of the Act. Here, the applicant has met this burden.

**ORDER:** The decision of the director, dated May 27, 2004 is withdrawn. The appeal is sustained.