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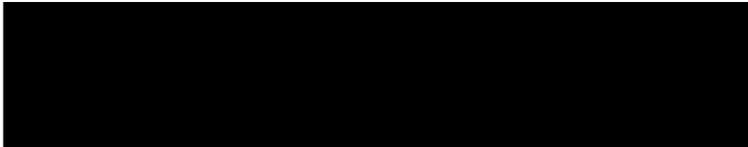
U.S. Department of Homeland Security  
20 Mass. Ave., N.W., Rm. 3000  
Washington, DC 20529



U.S. Citizenship  
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Services

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FILE:



Office: NEBRASKA SERVICE CENTER

Date: **JAN 30 2008**

[WAC 01 221 54566]

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 Nebraska Service Center. Any further inquiry must be made to that office.

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The Director, Nebraska Service Center (NSC), denied the initial application. The matter is now now before the Administrative Appeals Office (AAO) on appeal. The appeal will be 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 did not establish her qualifying continuous residence and continuous physical presence.

On appeal, the applicant submits evidence regarding her residence and physical presence.

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.

- (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 Salvadorans must demonstrate continuous residence in the United States since February 13, 2001, and continuous physical presence since March 9, 2001.

The burden of proof is on 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 reflects that the applicant filed an application on May 8, 2001 (WAC 01 221 54566) – during the initial registration period. In support of her application, the applicant submitted the following photocopied documents to establish her identity and nationality, and her continuous residence and continuous physical presence:

- The applicant's birth certificate, with translation;
- The applicant's Salvadoran passport, issued on August 7, 2000, by the Salvadoran Consulate in Los Angeles, California;
- The birth certificate of her child [REDACTED] born on August 16, 1989, in Corona, California;
- The birth certificate of her child [REDACTED] born on November 21, 1990, in Riverside, California; and
- The birth certificate of her child, [REDACTED], born on July 4, 1992, in Riverside, California.

On September 10, 2003, the director requested that the applicant submit further evidence to establish her qualifying continuous residence and continuous physical presence. The documents the applicant submitted in response to the director's request included:

- The report card for her child, [REDACTED] from [REDACTED] in Los Angeles, California, for grading period October 2000 to February 2001, addressed to the applicant, and signed by the applicant; and,

- The report card of her child [REDACTED] from [REDACTED], in Los Angeles, California, dated March 2001, addressed to the applicant, and signed by the applicant.

On December 4, 2003, the director denied the application, finding that the applicant had met the requirements for identity and nationality, but had failed to establish her qualifying continuous residence and continuous physical presence.

On appeal, the applicant submits additional documentation relating to her residence and physical presence, including a detailed letter from her landlord and a detailed letter from her employer.

The applicant's passport and her children's report cards show residence and physical presence immediately prior to and during the initial registration period. All of the documents submitted, indicate residence and physical presence in Los Angeles, California. Together, these documents establish that the applicant continuously resided in the United States since before February 13, 2001, through the date of filing of her initial application, on May 8, 2001. 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). Consequently, the director's decision to deny the application on these grounds is withdrawn.

The applicant has satisfied the requirements for establishing her continuous residence and continuance physical presence. The record contains results from a recent fingerprint investigation of the applicant conducted by the Federal Bureau of Investigation (FBI) on April 3, 2006, indicating no criminal record that would bar the applicant from TPS eligibility. Therefore, the application is approved.

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 met this burden.

**ORDER:** The appeal is sustained.