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U.S. Department of Homeland Security
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Washington, DC 20536

U.S. Citizenship and Immigration Services

[redacted]

FILE: [redacted] Office: TEXAS SERVICE CENTER Date: APR 0 7 2004

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, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Texas 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 determined that the applicant had failed to establish that she had entered the United States on or prior to February 13, 2001, and that she had continuously resided in the United States since February 13, 2001, and been continuously physically present in the United States since March 9, 2001. The director determined the applicant had not established eligibility for TPS and, therefore, denied the application.

On appeal, the applicant states that she entered the United States on February 9, 2001. She submits additional evidence of her residence in the United States.

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 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 condition described in paragraph (f)(2) of this section.

Continuously physically present 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.

Continuously resided 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 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. A subsequent extension of the TPS designation has been granted by the Secretary of Homeland Security, with validity until March 9, 2005, 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 the director. 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 January 10, 2003, the applicant was provided the opportunity to submit evidence establishing her residence in the United States since February 13, 2001, and physical presence since March 9, 2001, in the United States. The applicant was also requested to submit a photo identity document from her country of origin. The applicant, in response, submitted copies of the biographical pages from her Salvadoran passport, and a letter from Rodolfo B. Carrillo, M.D., who stated that the applicant was seen at his office during the period August 25, 2001 through February 21, 2002. The director determined the evidence submitted by the applicant did not establish that she had continuously resided in the United States since February 13, 2001 and that she had been continuously physically present in the United States since March 9, 2001. The director, therefore, denied the application.

On appeal, the applicant states she entered the United States on February 9, 2001. She submits copies of her birth certificate, additional copies of the biographical pages from her Salvadoran passport, a copy of a rental agreement, and a statement from Joyeria Chacon, Gainesville, Georgia.

The rental agreement indicates that it covers a month-to-month lease, commencing on March 5, 2001, for rental of the premises at 1350 Marlow Drive, Lot 24, Gainesville, Georgia. However the lease form shows that it was revised in October 2001, while the text indicates that the parties entered into the agreement on March 10, 2001. In addition, the agreement indicates that the premises are to be occupied by one adult and no

children, yet the additional terms provision in item 16 indicates the lessee (the applicant) should pay one-quarter of the utilities. The applicant did not furnish copies of any receipts for payment of rent as evidence of her residence at the address shown on the lease. This raises questions concerning the authenticity of the document. 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).

Similarly, Ms. Chacon states that she sold a gold necklace to the applicant around April 2001 and that the applicant paid for the jewelry in weekly installments through approximately August 2001, but the applicant did not furnish any receipts for the payments. The evidence furnished by the applicant does not establish that she has continuously resided in the United States since February 13, 2001, and that she has been continuously physically present since March 9, 2001 to the date she filed the application on April 30, 2001.

The applicant has not submitted sufficient evidence to establish that she has met the criteria described in 8 C.F.R. § 244.2(b) and (c). Consequently, the director's decision to deny the application for temporary protected status will be affirmed.

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.