U.S. Department of Homeland Security
20 Mass, Rm. A3042, 425 I Street, N.W.
Washington, DC 20536

PUBLIC COPY

identifying data deleted to prevent clearly unwarranted invasion of personal privacy

U.S. Citizenship and Immigration Services

M1

[redacted]

JAN 28 2004

FILE: [redacted] Office: CALIFORNIA SERVICE CENTER Date:

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 APPLICNT: [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.

Cindy M. Gomez for

Robert P. Wiemann, Director
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 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 failed to establish that she has continuously resided in the United States since February 13, 2001. The director, therefore, denied the application.

On appeal, the applicant states she previously provided evidence of residence in the United States. The applicant submits additional evidence of 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).

The record reflects that the applicant filed her TPS application on August 16, 2002. The applicant stated on the Form I-821 application that she entered the United States without inspection on June 2, 2000. In support of her claim, the applicant submitted a copy of a student registration form in her name, which indicates that she registered for ELS classes at Van Nuys CAS, Los Angeles Unified School District, on September 29, 2000. The registration form lists the applicant's address as 6723 Fulton Avenue, #2, Van Nuys, California 91401.

In notices of intent to deny dated December 27, 2002 and February 22, 2003, the applicant was requested to submit: (1) evidence of nationality; (2) evidence to establish continuous residence in the United States since February 13, 2001; and (3) evidence to establish physical presence in the United States since March 9, 2001. In response, the applicant submitted the following documentation:

1.) a March 6, 2003 affidavit from [redacted] who states that the applicant has rented a room in his house at [redacted] Phoenix, Arizona, from June 2000 to the date of the attestation;

2.) a March 6, 2003 affidavit from [redacted] who states that she has known the applicant since June 2000, and that the applicant has lived in the United States since that time;

3.) a copy of her birth certificate, with English translation; and

4.) receipts for money orders purchased by the applicant on August 30, 2001, December 10, 2001, and November 13, 2001.

The director determined the applicant had not established that she had maintained continuous residence in the United States since February 13, 2001. On May 2, 2003, the director denied the application for TPS.

On appeal, the applicant states that she has provided evidence of her residence in the United States. She submits the following evidence:

5.) a May 17, 2003 employment reference letter from [redacted] P.O. Box, [the name of the city is not shown on the letterhead], Arizona 85039-7900, who states the applicant has worked for him once a month since August 2000;

6.) a copy of the March 6, 2003 affidavit from [redacted]

7.) a copy of the March 6, 2003 affidavit from [redacted]

The affidavits are unsupported by probative evidence and are insufficient to establish that the applicant has continuously resided in the United States since February 13, 2001. Moreover, the applicant has provided conflicting evidence as to where she lived during the period she claims to have resided in the United States. The school registration form the applicant initially submitted indicates that she resided in Van Nuys, California, at the time she registered for classes there on September 29, 2000. This conflicts with information provided by Mr [redacted] who stated the applicant rented a room in his house in Phoenix, Arizona, from June 2000 through March 2003.

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.