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U.S. Citizenship
and Immigration
Services

M I

[redacted]

FILE: [redacted] Office: Vermont Service Center Date: MAR 03 2004

IN RE: Applicant: [redacted]

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

ON BEHALF OF PETITIONER: 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.

Cindy M. Gomez for
Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Vermont 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 she had: 1) continuously resided in the United States since February 13, 2001; and 2) been continuously physically present in the United States since March 9, 2001. The director, therefore, denied the application.

On appeal, the applicant asserts that she first entered the United States on December 24, 2000 and that she is submitting the only evidence she has.

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 [now the Secretary Department of Homeland Security (Secretary)] 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 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, (now the Secretary,) announced an extension of the TPS designation until September 9, 2003. A subsequent extension of the TPS designation has been granted by the Secretary 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 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 October 26, 2002, the applicant was provided the opportunity to submit evidence establishing her residence since February 13, 2001, and physical presence since March 9, 2001, in the United States. The applicant, in response, provided a photocopy of a letter from Raymond Peterson in which Mr. Peterson states that the applicant has been cleaning his house in Flemington, New Jersey since January 2001. The applicant also furnished an undated Oregon State In-Class Registration Form, a student identification card stamped "Winter 2001" and an Oregon State identification card issued March 1, 2001. The director determined that the applicant failed to establish her continuous residence and physical presence in the United States since February 13, 2001 and March 9, 2001 respectively, and denied the application.

On appeal, the applicant claimed that she first entered the United States in December 24, 2000. In addition, the applicant submitted a letter from Ena Silvia Carranza. The applicant also provided another copy of the In-Class Registration Form and resubmitted a photocopy of the student identification card. In her statement, Ms. Carranza asserts that the applicant resided at 3030 Holliwood Drive, N.E., Apt. #66 in Oregon from December 24, 2000 to April 14, 2001. However, this statement directly contradicts the statement from Mr. Peterson in which he claimed that the applicant cleaned his house in New Jersey from January 2001. Moreover, the copy of the registration form provided by the applicant on appeal has the date filled in, while the copy of form presented previously clearly was undated.

Doubt cast on any aspect of an applicant's proof may lead to a revaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. It is incumbent upon an 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). The applicant has failed to submit any objective evidence to explain or justify the difference regarding her working for Mr. Peterson in New Jersey while maintaining a residence in Oregon during the same period. Similarly, the applicant has offered no explanation as to why there is a date on the registration form provided on appeal, but there is no date on the form initially submitted. Therefore, the reliability of the remaining evidence offered by the applicant is suspect.

The applicant has not submitted any evidence to establish that she has met the criteria for residence and physical presence 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.