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FILE: [REDACTED]  
[EAC 02 114 51482]

Office: VERMONT SERVICE CENTER

Date: JUN 05 2006

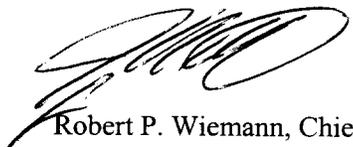
IN RE: Applicant: [REDACTED]

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, Chief  
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 denied the application because the applicant failed to establish that 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.

On appeal, the applicant asserts her claim of eligibility for TPS.

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 is eligible for TPS only if such alien establishes that he or she:

- (a) Is a national of a 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 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.

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. An extension of the TPS designation has been granted with validity until September 9, 2007, 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 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).

On May 8, 2003, the applicant was requested to submit evidence establishing her continuous residence since February 13, 2001, and continuous physical presence since March 9, 2001, in the United States. The applicant failed to respond to the director's request for evidence.

The director denied the TPS application on July 30, 2003, because the applicant failed to establish her continuous residence and continuous physical presence in the United States during the requisite time periods.

The applicant initially submitted the following documentation along with her TPS application:

1. Copies of medical bills from University Hospital in New York and other affiliated medical facilities dated June, July, and August of 2002, and May, June, and August of 2003;
2. A copy of a receipt from the Social Security Administration dated June 17, 2002 and bearing the applicant's name;
3. Copies of two earnings statements from [REDACTED] dated November and December of 2002 and bearing the applicant's name;
4. A copy of an untranslated receipt dated December 17, 2002;
5. An illegible copy of a receipt from Gigante Express dated January 20, 2002;

6. A copy of an envelope with an illegible postmark date; and,
7. A copy of an envelope postmarked November 19, 2002 and bearing the applicant's name as receiver.

On appeal, the applicant claims that she was not able to respond to the director's request for evidence because she was in the hospital giving birth and subsequently taking care of her ill child during the period in question. The applicant reasserts her claim of eligibility for TPS, resubmits the evidence initially submitted with her TPS application, and submits the following documentation:

8. An affidavit from [REDACTED] in which she states that the applicant is her friend and that she has known the applicant since the year 2000;
9. An affidavit [REDACTED] in which he states that he rented a room to the applicant [REDACTED] New York from January of 2001 to July of 2002; and,
10. A copy of a Verizon telephone bill dated June 30, 2003 and bearing the applicant's name as customer.

The applicant has not submitted sufficient evidence to establish her qualifying continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States since March 9, 2001. The affidavits submitted as evidence (Nos. 8 and 9 above) are inconclusive and do not explain the origin of the information to which they attest. There has been no corroborative evidence submitted to support the statements made by the affiants regarding the applicant's claimed presence in the United States since June of 2000. The applicant claims to have entered into the United States in June of 2000. It is reasonable to expect that the applicant would have some type of contemporaneous evidence to support the statements made by the affiants; however, there has been no such evidence provided. Without corroborative evidence, the affidavits from acquaintances do not substantiate clear and convincing evidence of the applicant's continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States since March 9, 2001. Moreover, affidavits are only specifically listed as acceptable evidence for proof of employment, and attestations by churches, unions, or other organizations of the applicant's residence as described in 8 C.F.R. §244.9(a)(2)(i) and (v).

All other evidence submitted by the applicant is dated subsequent to the requisite time periods; and therefore, cannot be used to establish continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States since March 9, 2001. The applicant has failed to establish that she has met the continuous residence and continuous physical presence criteria described in 8 C.F.R. §§ 244.2(b) and (c). Consequently, the director's decision to deny the application for TPS will be affirmed.

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 failed to meet this burden.

**ORDER:** The appeal is dismissed.