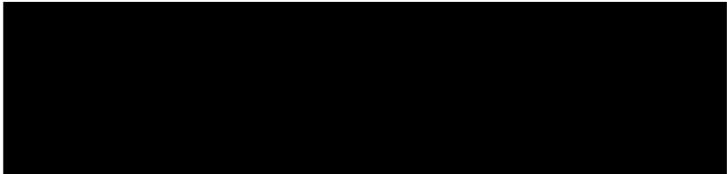




U.S. Citizenship
and Immigration
Services

PUBLIC COPY

**Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy**



111

FILE: [REDACTED]
[EAC 02 146 52611]

Office: VERMONT SERVICE CENTER

Date: JAN 30 2007

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 requested the applicant submit evidence to establish her eligibility for TPS. The applicant failed to respond to the director's request for evidence. The director subsequently denied the application on August 28, 2003, because the applicant was not eligible for TPS. The applicant appealed the director's decision. The AAO remanded the case to the Vermont Service Center on March 8, 2005, because the director had failed to state the specific reasons for the denial.

On October 5, 2005, the director denied the application because the applicant failed to establish that she had continuously resided in the United States since February 13, 2001; and had 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 program for El Salvadorans was granted from September 9, 2003 until March 9, 2005. Subsequent extensions of the TPS designation have been granted with the latest extension valid 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).

The applicant submitted the following documentation:

1. A copy of a laboratory bill from Quest Diagnostics bearing the applicant's name as patient with a service date of November 30, 2001;
2. A copy of a medical statement from Queens Hospital Center with a fee date of September 1999 and bearing the applicant's name as patient;
3. A copy of a Western Union money receipt dated January 26, 2002, and bearing the name [REDACTED] as sender;

4. A letter dated March 2, 2002, from the [REDACTED] of St. Michael's Church in which he stated that the applicant's address was [REDACTED] Flushing, New York, and that she had lived in that area for the past six years;
5. An affidavit from [REDACTED] in which she stated that she has known the applicant since March 13, 2002;
6. An affidavit from [REDACTED] in which he stated that he has rendered professional services to the applicant since November 30, 2001; on average two times a year;
7. An affidavit from [REDACTED] in which he stated that he has known the applicant since December 19, 2001;
8. An affidavit from [REDACTED] in which she stated that she has known the applicant since February 7, 2001;
9. An affidavit from [REDACTED] dated March 18, 2002, in which he stated that he has known the applicant for the past several years;
10. Copies of earning statements from [REDACTED], dated December of 2002 through August of 2003 and bearing the applicant's name as employee; and
11. A copy of a [REDACTED] spa card bearing the name "[REDACTED]" and dated April 13, 1999.

The applicant has not submitted sufficient evidence to establish her qualifying continuous residence since February 13, 2001, and continuous physical presence since March 9, 2001, in the United States. The affiant's statements (see numbers 5 through 9 above) regarding the applicant's claimed presence in the United States are not supported by any corroborative evidence. The applicant claims to have entered the United States on October 5, 1995. It is reasonable to expect that the applicant would have some type of contemporaneous evidence to support these assertions; however, no such evidence has been provided. Affidavits are not, by themselves, persuasive evidence of residence or physical presence.

The letter from [REDACTED] (see number 4 above) has little evidentiary weight or probative value as it does not provide basic information that is expressly required by 8 C.F.R. § 244.9(a)(2)(v). Specifically, the pastor does not explain the origin of the information to which he attests, nor does he specify the applicant's involvement with the church.

The copy of the money order receipt (see number 3 above) provided by the applicant is not supported by any other corroborative evidence. While 8 C.F.R. § 244.9(a)(2)(vi) specifically states that additional documents such as money order receipts "may" be accepted in support of the applicant's claim, the regulations do not suggest that such evidence alone is necessarily sufficient to establish the applicant's qualifying residence or physical presence in the United States. The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. 8 C.F.R. § 244.9(b).

The earning statements provided by [REDACTED] (see number 10 above) are all dated subsequent to the applicant's file date of March 23, 2002; and therefore, cannot be used to determine the applicant's eligibility for TPS. The laboratory bill from Quest Diagnostics (see number 1 above) is insufficient to establish the applicant's continuous residence and continuous physical presence.

All other evidence submitted by the applicant is dated prior to the requisite time periods. 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. The application will be denied for the above reasons, with each considered as an independent and alternative basis for denial.

ORDER: The appeal is dismissed.