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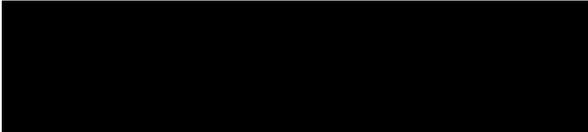
**U.S. Citizenship
and Immigration
Services**

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FILE:  Office: VERMONT SERVICE CENTER Date: **JUL 01 2005**

IN RE: Applicant: 

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, Vermont Service Center, and is now before the Administrative Appeals Office (AAO) 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 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 submits a letter and additional documentation.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an applicant is eligible for TPS 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 § 244.3;
- (e) Is not ineligible under § 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.
- (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 conditions described in paragraph (f)(2) of this section.

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.

The phrase brief, casual, and innocent absence, as defined in 8 C.F.R. § 244.1, means a departure from the United States that satisfies the following criteria:

- (1) Each such absence was of short duration and reasonably calculated to accomplish the purpose(s) for the absence;
- (2) The absence was not the result of an order of deportation, an order of voluntary departure, or an administrative grant of voluntary departure without the institution of deportation proceedings; and
- (3) The purposes for the absence from the United States or actions while outside of the United States were not contrary to law.

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. Subsequent extensions of the TPS designation have been granted by the Secretary of the Department of Homeland Security, with the latest granted until September 9, 2006, upon the applicant's re-registration during the requisite time period.

The burden of proof is upon the applicant to establish that 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 her burden of proof the applicant must provide supporting documentary evidence of eligibility apart from her own statements. 8 C.F.R. § 244.9(b).

At the time of filing her Form I-821, Application for Temporary Protected Status, on April 4, 2002, the applicant indicated that she had last entered the United States without inspection on August 24, 2001. In support of the application, the applicant submitted:

1. A photocopy of her El Salvadoran personal identification card (cédula), issued in El Salvador in July 2001;
2. A photocopy of a translation of her birth certificate, with no original;
3. A Western Union money transfer customer receipt, dated December 26, 2001; and,
4. A letter in Spanish with no English translation.

On July 23, 2002, the applicant was requested to submit evidence establishing her nationality and her qualifying continuous residence and continuous physical presence in the United States during the requisite time periods. In response, the applicant submitted:

5. A photocopy of her El Salvadoran birth certificate, with English translation;
6. An affidavit from [REDACTED] dated July 30, 2002, stating that the applicant came to the United States on August 24, 2000; and,
7. An affidavit from [REDACTED] dated August 1, 2002, stating that the applicant came to the United States on August 24, 2000.

The director determined that the applicant had failed to submit sufficient evidence to establish her eligibility for TPS and denied the application on June 26, 2003. The director noted in his denial that the applicant had indicated on her Form I-821 that she had entered the United States on August 24, 2001.

On appeal, the applicant asserts that she came to the United States in August 2000, and that the person who helped her fill out her application made a mistake by writing her entry date as August 2001. In support of the appeal, the applicant submits the following additional documentation:

8. A photocopy of her 2001 Internal Revenue Service (IRS) Form 1040EZ, Income Tax Return for Single and Joint Filers with No Dependents.
9. A photocopy of her 2000 IRS Form 1040EZ;
10. A photocopy of a [REDACTED] identification card;
11. A letter from [REDACTED] Manassas Park, Virginia, stating that she has employed the applicant as a child care provider since September 2000; and,
12. A 2000 IRS Form 1099-Misc.

The applicant now claims to have lived in the United States since August 2000. It is reasonable to assume that she would have a variety of objective evidence to support this claim. Affidavits from acquaintances (Nos. 6 and 7, above) are not, by themselves, persuasive evidence of residence or physical presence.

It is noted that the applicant's *cédula* (No. 1), which contains her photograph and fingerprints, was issued in El Salvador after her claimed date of entry in August 2000. Nos. 8 and 9 indicate that the applicant's social security number is [REDACTED] however, at the time of filing her Form I-821, the applicant indicated that she had never used a social security number. Furthermore, the record reflects that when filing a Form I-765, Application for Employment Authorization, on October 24, 2002, the applicant indicated that she used social security number [REDACTED]. These discrepancies have not been explained and call into question in the applicant's ability to document the requirements under the statute and regulations. Doubt cast on any aspect of the evidence as submitted may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. It is incumbent on the petitioner to resolve any inconsistencies in the record by independent objective evidence; any attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582. (Comm. 1988).

It is concluded that the applicant has not submitted sufficient credible evidence to establish her qualifying continuous residence in the United States since February 13, 2001, and her continuous physical presence in the United States since March 9, 2001. 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.