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U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. A3042
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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[REDACTED]

FILE:

[REDACTED]

Office: VERMONT SERVICE CENTER

Date: JUN 23 2005

[EAC 02 038 51154]

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, 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 denied the application because the applicant failed to establish that she had continuously resided in the United States since February 13, 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 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. An extension of the TPS designation has been granted with validity 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 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 initially submitted the following documentation with her TPS application:

1. A copy of the applicant's Virginia Identification Card issued August 7, 1999, and bearing the applicant's name, date of birth, and address of [REDACTED] Virginia; and,
2. An employment letter dated September 25, 2001, bearing the applicant's address of [REDACTED] NW, Washington, DC, in which a general manager of [REDACTED] Products N.A., Inc., Jessup, Maryland, stated that the company had employed the applicant since October of 1999.

On April 22, 2003, the applicant was requested to submit evidence establishing her continuous residence in the United States since February 13, 2001. The applicant did not respond to the director's request for evidence.

The director determined that the applicant had failed to submit sufficient evidence to establish continuous residency in the United States since February 13, 2001 and denied the application on August 25, 2003.

On appeal, the applicant reasserts her claim of eligibility for TPS and submits the following documentation:

3. A copy of an employment letter dated September 8, 2003, and signed by [REDACTED] in which he states that the applicant had been employed by the [REDACTED] from February of 1999, to May of 2003;
4. A letter signed by [REDACTED] a of the [REDACTED] church in which he states that he has known the applicant since [REDACTED]

- April of 1999, and that she has been an active member of the church volunteering during her spare time with food sales; and
5. An affidavit of support from [REDACTED] sister of the applicant, in which she states that she has lived with her at [REDACTED] Washington, DC, since March 13, 1999, and pays a monthly rent of \$150.00.

The applicant has not submitted sufficient evidence to establish her qualifying continuous residence in the United States during the period from February 13, 2001, to October 1, 2001. The affidavit from [REDACTED] (No. 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 document is not signed by an official whose title is also shown; it does not show inclusive dates of membership; it does not state the address where the applicant resided during the membership period; it does not include the seal of the organization impressed on the letter; nor does it explain the origin of the information to which the letter writer attests.

The applicant submitted with her initial TPS application a copy of her Virginia Identification Card issued on August 7, 1999, and bearing her address of [REDACTED]. In addition, the applicant submitted an employment letter from a general manager of [REDACTED] Products N.A., Inc. (No. 2 above) dated September 25, 2001, in which the applicant's address is shown as [REDACTED] NW, Washington, DC. Finally, the applicant submitted a sworn statement dated September 9, 2003, from [REDACTED] (No. 5 above) who claims that she is the sister of the applicant, and that the applicant has resided with her at [REDACTED] Washington, DC, since March 13, 1999. This sworn statement directly conflicts with the statements made on behalf of the applicant in Nos. 1 and 2 above. Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. It is incumbent upon the 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 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 inconsistencies. Therefore, the reliability of the remaining evidence offered by the applicant is also suspect. Likewise, there has been no independent documentary evidence submitted to substantiate the letters of employment (Nos. 2 and 3 above). There has been no corroborative documentation submitted to substantiate any of the residency claims.

The applicant claims to have lived in the United States since May of 1999. It is reasonable to expect that the applicant would have some other type of contemporaneous evidence to support her claim of continuous residency; however, no such evidence has been provided. The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. 8 C.F.R. § 244.9(b). It is determined that the other documentation submitted by the applicant is not sufficient to establish that she satisfies the continuous residency requirement described in 8 C.F.R. § 244.2(c). Consequently, the director's decision to deny the application for temporary protected status will be affirmed.

Beyond the decision of the director, the applicant has failed to submit sufficient evidence to establish her continuous physical presence in the United States from March 9, 2001, to October 1, 2001, as required by 8 C.F.R. § 244.2(b). Therefore, the application must also be denied for this reason.

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.