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U.S. Department of Homeland Security  
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U.S. Citizenship  
and Immigration  
Services

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FILE:

[EAC 02 210 51298]

Office: VERMONT SERVICE CENTER

Date:

JUN 24 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 brief statement and an additional document.

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.

On March 9, 2001, the Attorney General designated El Salvador (66 Federal Register 14214) for Temporary Protected Status (TPS). On July 9, 2002, the Attorney General announced an extension of the TPS designation until September 9, 2003. 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.

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. The initial registration period for Salvadorans was from March 9, 2001, through September 9, 2002.

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).

The applicant filed her initial Form I-821, Application for Temporary Protected Status, on June 1, 2002. In support of her application, the applicant submitted:

1. A photocopy of her El Salvadoran birth certificate, with English translation;
2. A photocopy of her Virginia Identification Card, issued on August 2, 2001;
3. A photocopy of her Virginia Learner's Permit, issued on October 31, 2001;
4. A letter, dated April 17, 2002, from [REDACTED] stating that he has known the applicant since October 2000;
5. A letter, dated April 19, 2002, from [REDACTED] stating that she has known the applicant since December 2000; and,
6. A letter, dated April 20, 2002, from [REDACTED] stating that she has known the applicant since December 2000.

On September 19, 2003, the director requested the applicant to submit evidence establishing her qualifying continuous residence and continuous physical presence in the United States during the requisite time periods. The director specifically advised the applicant that acceptable evidence might include, but is not limited to, employment or school records, rent or medical receipts, bank or insurance documents, medical or utility bills, or other similar documentation. In response, the applicant submitted the following:

7. An uncertified photocopy of the applicant's 2001 Internal Revenue Service (IRS) Form 1040, U.S. Individual Income Tax Return. The applicant's social security number on the Form 1040 is noted as 231-93-4157;
8. A letter, dated October 4, 2003, from [REDACTED] stating that he has known the applicant since January 2001;
9. A letter, dated October 4, 2001, from [REDACTED] stating that she has known the applicant since February 2001; and,
10. A letter, dated October 4, 2001, from [REDACTED] stating that he has known the applicant since March 2001.

The director determined that the applicant had failed to submit sufficient evidence to establish her eligibility for TPS and denied the application on January 13, 2004.

On appeal, the applicant states that she has new evidence to submit in support of her application. In support of her appeal, the applicant submits:

11. An undated and un-translated document in Spanish from [REDACTED]

On appeal, the applicant has submitted an undated, un-translated document. Pursuant to 8 C.F.R. § 103.2(b)(3), any document containing a foreign language submitted to CIS must be accompanied by a full English language translation that the translator has certified as complete and accurate, and by the translator's certification that he or she is competent to translate from the foreign language into English. As the applicant failed to comply with the aforementioned, No. 11, above, may not be considered in the rendering of this decision.

No. 1, above establishes the applicant's nationality. Nos. 2 and 3 indicate that she was physically present in the United States on August 2, 2001 and October 31, 2001, respectively. However, the applicant claims to have lived continuously in the United States from September 12, 2000, to the date of filing her TPS application on June 1, 2002. It is reasonable to expect that she would have a variety of contemporaneous evidence to support this claim. The letters provided by the applicant from acquaintances (Nos. 4, 5, 6, 8, 9, and 10) are not, by themselves, persuasive evidence of qualifying continuous residence and continuous physical presence.

Furthermore, there is a discrepancy encountered in the documentation provided by the applicant concerning her use of a social security number. At the time of filing her initial TPS application in June 2002, the applicant indicated that she had never used a social security number; however, No. 7, above, indicates that she used social security number [REDACTED] when she filed her 2001 Form 1040. This discrepancy has not been explained and calls 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 application. It is incumbent on the applicant 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).

Based on a review of the record, it is concluded that the documentation submitted by the applicant is not sufficient to establish that she satisfies the **continuous** residence and **continuous** physical presence requirements described in 8 C.F.R. §§ 244.2(b) and (c) for a TPS-designated El Salvadoran applicant. 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.