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: OCT 1 8 2005

[redacted]
[EAC 01 257 55644]

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.

for Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Vermont Service Center (VSC), 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 her qualifying continuous residence and continuous physical presence in the United States during the requisite periods.

On appeal, the applicant asserts her eligibility for TPS and submits evidence in support of her claim.

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.

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. On July 9, 2002, the Attorney General announced an extension of the TPS designation until September 9, 2003. A subsequent extension of the TPS designation has been granted by the Secretary of the Department of Homeland Security, 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).

On July 31, 2003, the applicant was requested to submit evidence establishing her continuous residence in the United States since February 13, 2001, and her continuous physical presence in the United States since March 9,

2001, to the date of filing her application. The director determined that the record did not contain a response from the applicant; therefore, the director denied the application on October 7, 2003.

On appeal, the applicant states that she had responded to a May 19, 2003 request from the director. The applicant also provides the following documentation: copies of the birth certificate and Social Security card of her daughter, born on February 21, 2002; copies of her El Salvadoran passport and personal identification card; a copy of her birth certificate; copies of Western Union money transfer receipts dated February 1, 1999 and November 15, 1999; a copy of a rent receipt dated March 3, 2001; a copy of a billing statement dated June 23, 1999, from Palisades Medical Center; a copy of an agreement dated August 4, 2001, from the North Hudson Community Action Corporation Health Center; copies of receipt notices from the Service dated August 28, 2001 and October 24, 2001, regarding her applications for temporary protected status and employment authorization; a copy of her fingerprint notification from the Service dated September 24, 2001; a copy of a letter dated October 2, 2001, from the Social Security Administration; copies of her Employment Authorization and Social Security card; a copy of her application for public assistance dated February 21, 2002; and copies of a return receipt from the United States Postal Service bearing a stamp from the Vermont Service Center director dated June 23, 2003.

The record of proceedings also contains the following documentation submitted by the applicant: a copy of a patient discharge profile from Palisades Medical Center dated April 2, 2002; a copy of a letter dated April 29, 2002, from Health Net; copies of appointment cards dated December 27, 2001 and May 21, 2002; an undated copy of a New Jersey WIC identification worksheet; a copy of a receipt dated June 6, 2001, from the Consulate General of El Salvador in New York; a copy of an envelope addressed to the applicant postmarked March 27, 2002; copies of a hand-written receipt dated May 24, 1999 and payment history report, from the North Hudson Community Action Corporation Health Center; and a copy of a receipt dated October 16, 2001, from the Hudson County Chest Clinic.

A review of the documentation reflects a significant gap between November 15, 1999 and March 3, 2001. The applicant provided a single copy of a rent payment receipt dated March 3, 2001. While 8 C.F.R. § 244.9(a)(2)(vi) specifically states that additional documents such as rent 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 continuous residence or continuous physical presence in the United States. The applicant claims to have lived in the United States since March 26, 1999. It is reasonable to expect that the applicant would have some other type of contemporaneous evidence to support her continuous residence and continuous physical presence during the entire requisite time periods for El Salvadoran TPS. 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 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). Consequently, the director's decision to deny the application for temporary protected status will be affirmed.

The application will be denied for the above stated reasons, with each considered as an independent and alternative basis for denial. 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.