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U.S. Citizenship  
and Immigration  
Services

MI

FILE: [REDACTED]  
[SRC 01 228 67991]

Office: TEXAS SERVICE CENTER Date: **OCT 19 2005**

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*

Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, Texas 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 her continuous residence in the United States during the requisite period.

On appeal, the applicant submits a statement and additional evidence.

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 designated by the Attorney General is eligible for temporary protected status 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 section 244.3;
- (e) Is not ineligible under 8 C.F.R. § 244.4; and
- (f)
  - (1) Registers for TPS 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. 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 with validity of the latest extension until September 9, 2006, upon the applicant's re-registration during the requisite time period.

The initial registration period for El Salvadorans was from March 9, 2001, through September 9, 2002. The record reveals that the applicant filed her initial TPS application with the Immigration and Naturalization Service, now Citizenship and Immigration Services (CIS), on July 18, 2001.

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 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).

On May 10, 2004, the applicant was requested to submit evidence establishing her continuous residence in the United States since February 13, 2001. The director noted that the airline ticket receipt for domestic travel within

the United States in January 2001 referenced her mother's name and address and was not sufficient to determine that the applicant had established a residence in the United States by the requisite date.

In response, the applicant submitted photocopies of the following documentation: a Western Union receipt dated "10-5-00;" an apartment lease dated October 13, 2000, listing the applicant as a resident; and, a pool waiver and release for the same apartment complex dated September 8, 2000.

With her initial TPS application, the applicant had also submitted photocopies of: her El Salvadoran cedula dated in November 1998; the biographic page of her El Salvadoran passport issued in El Salvador on April 6, 1999; a prescription receipt dated June 16, 2001; and, an airline itinerary and receipt for travel from Los Angeles, California, to Atlanta, Georgia on January 13, 2000.

The director determined that the applicant had failed to establish her qualifying continuous residence in the United States, and, therefore, denied the application on August 10, 2004. The director's decision also noted penalties for knowingly and willfully falsifying information.

On appeal, the applicant states that she believes that she has sufficient evidence to prove her continuous presence in the United States since February 13, 2001. In support of the appeal, the applicant submits additional documentation consisting of: a letter dated September 6, 2004, from the Director, English Language School, First Baptist Church of Smyrna, Smyrna, Georgia, stating that the applicant was enrolled in their English class from January 2001 through the end of May 2001; a class attendance roster dated "Jan/Feb 2001" in which the applicant's name has been added in handwriting and her "Country" is listed as "Mex;" another class attendance roster dated "Mar/Apr/May 2001" in which the applicant's name is typed and her "Country" is listed as "El Salvador;" and, a residential lease form dated September 2003 through September 2004. The applicant also resubmits additional copies of documents that had previously been entered into the record.

Some of the submitted documentation has been altered. The Western Union receipt is dated "10-5-00" while the printer's edition of the form indicates the form was created in 2003-2004. 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 not established that she has met the criteria described in 8 C.F.R. § 244.2 (c). Consequently, the director's decision to deny the application for temporary protected status on this ground will be affirmed.

Beyond the decision of the director, for the reasons discussed above, the applicant also has failed to establish her continuous physical presence in the United States for the requisite period. She has not established that she has met the criteria described in 8 C.F.R. § 244.2 (b), and the application must also be denied for this reason.

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 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.