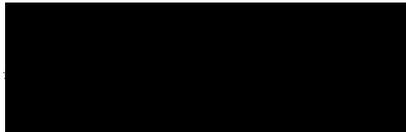




U.S. Citizenship  
and Immigration  
Services

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prevent clearly unwarranted  
invasion of personal privacy



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FILE: [REDACTED]  
[SRC 01 231 70294]

Office: VERMONT SERVICE CENTER

Date FEB 21 2006

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:



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, 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 she had continuously resided in the United States since February 13, 2001 and been continuously physically present in the United States since March 9, 2001.

On appeal, counsel submits additional documentation and states:

never received the letter dated May 14, 2004 intending to deny the case and requesting more documents. She only received the denial letter dated July 28, 2004.

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 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.

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. 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).

Upon initial submission, the applicant forwarded the following documentation.

1. Copies of two passenger ticket and baggage check documents dated December 31, 2000 issued by U.S. Airways to the applicant for flights from Boston to Tampa and from Tampa to Tallahassee on that day.

On May 14, 2004,, the applicant was requested to submit evidence establishing her residence from February 13, 2001, and physical presence since March 9, 2001, in the United States. The record reflects that the notice was mailed to the applicant's attorney of record, however, the applicant did not respond. On July 28, 2004, the director denied the application. On appeal, the applicant provides the following documentation:

2. An undated letter [REDACTED] executive assistant with ABM Janitorial Services in Alexandria, Virginia indicating that the applicant was employed by the corporation from February 21, 2002 to December 17, 2002.

3. A letter dated August 27, 2004 [REDACTED] Manager/Payroll Administrator with A&L Service Industries in Fairfax, Virginia indicating that the firm has employed the applicant since September 17, 2002.
4. Ten pay slips to the applicant [REDACTED] Denver, Colorado and [REDACTED] Fairfax, Virginia for pay dates beginning on March 10, 2003 and ending on August 13, 2004.
5. A copy of a Western Union money transfer dated September 1, 2003 from the applicant to a person in El Salvador.
6. A copy of the applicant's undated employee identification card from [REDACTED] Services Corporation.
7. A copy of the applicant's Virginia identification card issued on August 23, 2003.
8. A copy of the applicant's Florida identification card issued on October 9, 2001
9. A copy of a Western Union money transfer dated January 27, 2004 from the applicant to a person in El Salvador.
10. A copy of an explanation of benefits statement to the applicant from [REDACTED] processed on September 12, 2003.
11. A copy of a statement to the applicant from the Fort Belvoir Federal Credit Union for the period ending February 28, 2003.
12. A copy of a statement dated July 17, 2003 to the applicant from the Virginia Hospital Center in Arlington, Virginia.
13. A copy of an Acknowledgement of Receipt of a Notice of Privacy Practices dated August 6, 2003 from the applicant to the INOVA Health System.
14. A copy of a Western Union money order dated August 18, 2003 from the applicant to a person in El Salvador.
15. A copy of the applicant's IRS Form 1040, U.S. Individual Income Tax Return for 2002.
16. A copy of the applicant's IRS Form 1040, U.S. Individual Income Tax Return for 2003.
17. Copies of the applicant's IRS Form W-2, Wage and Tax Statement from A & L Cleaning Service in Fairfax, Virginia for 2002 and 2003.

18. Copies of the applicant's IRS Form W-2, Wage and Tax Statement from Kleen-Tech Building Services Inc. in Denver Colorado for 2002 and 2003.
19. A copy of the applicant's IRS Form W-2, Wage and Tax Statement from American Building in Alexandria, Virginia for 2002.
20. A copy of a letter to the applicant dated December 20, 2002 from The Premier Bank in Sioux Falls, South Dakota.
21. A copy of a furniture lease dated December 14, 2002 to the applicant from Rent-A-Center in Alexandria, Virginia.

The applicant has not submitted sufficient evidence to establish her continuous residence or continuous physical presence in the United States from February 13, 2001 to October 9, 2001, the date her Florida identification card was issued. She has, thereby, failed to establish that he has met the criteria described in 8 C.F.R. §§ 244.2(b) and (c) (*supra*). Consequently, the director's decision to deny the application for TPS 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.