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FILE: [REDACTED]
[EAC 02 194 51201]

Office: VERMONT SERVICE CENTER

Date: **JAN 26 2006**

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, reopened, and denied again by the Director, California 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 initially determined that the applicant had abandoned her application because she failed to appear for her fingerprint appointment or to request that her fingerprint appointment be rescheduled. The director, therefore, denied the application on July 31, 2003.

On August 29, 2003, the applicant filed a motion to reopen the matter.

The director reopened the matter and denied the application again on August 4, 2004, because the applicant failed to establish continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States since March 9, 2001.

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 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 § 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.

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 has been granted, with the latest extension granted until September 9, 2006, upon the applicant's re-registration during the requisite time period.

The initial registration period for 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 May 15, 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 indicated on her Form I-821, Application for Temporary Protected Status, that she entered the United States without inspection in February 2000. In support of her application, the applicant submitted the following:

1. a photocopy of the biographic page of her Salvadoran passport issued in Washington, D.C., on February 21, 2002;
2. a photocopy of an American Airlines boarding pass indicating that the applicant flew from Los Angeles, California, to Washington, D.C., on May 19, 2001; and,
3. an affidavit dated September 22, 2001, from [REDACTED] attesting that the applicant lived at [REDACTED] North Hollywood, California," from February 2000 to June 2000.

On June 8, 2004, the applicant was requested to submit evidence establishing her qualifying continuous residence and continuous physical presence in the United States during the requisite periods. The record does not contain a response from the applicant.

The director determined that the applicant had failed to submit sufficient evidence to establish her qualifying continuous residence and continuous physical presence in the United States during the requisite periods and denied the application on August 4, 2004.

On appeal, the applicant states that she never received the Notice of Intent to Deny dated June 8, 2004, because it was forwarded to her former attorney and not to her. The applicant submits the following evidence:

4. a photocopy of a "United States Identification Card" issued on May 16, 2001;
5. a photocopy of the applicant's American Airlines itinerary relating to her trip from Los Angeles, California, to Washington, D.C., on May 19, 2001;
6. a photocopy of a Verizon billing statement with a due date of December 12, 2001;
7. a photocopy of a mailing envelope postmarked June 6, 2002;
8. a photocopy of a letter dated June 13, 2002, from the Social Security Administration, acknowledging receipt of the applicant's application for a Social Security card; and,
9. photocopies of mailing envelopes postmarked June 14, 2001 and September 11, 2002, respectively.

The affidavit from Ms. [REDACTED] (No. 3 above) is not sufficient to establish an applicant's qualifying continuous residence and continuous physical presence. Ms. [REDACTED] attests to the applicant's residence and

physical presence in the United States prior to the requisite periods to establish the applicant's qualifying continuous residence and continuous physical presence in the United States. Moreover, affidavits are only specifically listed as acceptable evidence of employment and membership in organizations such as churches or labor unions as described at 8 C.F.R. § 244.9(a)(2)(i) and (v). Additionally, the letter from the Social Security Administration (No. 8 above) and the mailing envelopes postmarked June 6, 2002 (No. 7 above) and September 11, 2002 (No. 9 above) are dated after the requisite periods to establish continuous residence and continuous physical presence in the United States.

The applicant has not submitted any evidence to establish her continuous residence in the United States from February 13, 2001 to May 16, 2001, the issuance date of the applicant's "United States Identification Card," (No. 4 above), or any evidence to establish her continuous physical presence in the United States from March 9, 2001 to May 16, 2001.¹ Further, the applicant has not submitted evidence to establish her qualifying continuous residence and continuous physical presence in the United States from June 14, 2001 (No. 9 above) to September 11, 2001 (No. 9 above), from December 12, 2001 (No. 6 above) to February 21, 2002 (No. 1 above), or from February 21, 2002 (No. 1 above) to May 15, 2002, the filing date of the applicant's TPS application.

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 residence and 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 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.

¹ It is noted that the applicant's "United States Identification Card" is not an official photo identification document from any federal, state, or local government agency, and is not acceptable as proof of identity for immigration purposes.