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FILE: [REDACTED]
[WAC 05 249 72546]

Office: CALIFORNIA SERVICE CENTER

Date: **SEP 17 2007**

IN RE: Applicant:

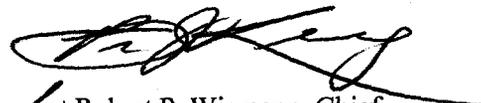
[REDACTED]

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, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, California 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 determined that the applicant failed to establish she had: 1) continuously resided in the United States since February 13, 2001; and 2) been continuously physically present in the United States since March 9, 2001. The director, therefore, denied the application.

On appeal, the applicant asserts that she was born in El Salvador and is the minor child of a TPS-eligible parent. The applicant also submits evidence in an attempt to establish continuous residence and continuous physical presence in the United States during the qualifying period.

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 as 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.

The term *continuously physically present*, as used 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 term *continuously resided*, as used 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 that they have continuously resided in the United States since February 13, 2001, and that they have been continuously physically present 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 the latest extension granted until March 9, 2009, upon the applicant's re-registration during the requisite period.

The initial registration period for El Salvadorans was from January 5, 1999 to August 20, 1999. The record shows that the applicant filed her initial TPS application on May 31, 2005.

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).

The record shows that the applicant filed her TPS application on May 31, 2005. On November 16, 2006, the applicant was provided the opportunity to submit evidence establishing her eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2). The applicant was also requested to submit evidence establishing her nationality and identity, her continuous residence in the United States since February 13, 2001 and her continuous physical presence in the United States from March 9, 2001 to the date of filing the application. The applicant failed to respond to the notice.

The director determined that the applicant failed to submit sufficient evidence to establish her continuous residence and continuous physical presence in the United States during the qualifying period. Therefore, the director denied the application.

On appeal, the applicant states that she is an El Salvadoran minor child of a TPS-eligible parent. According to the applicant, she has been in the United States since February 2001. The applicant also states that she did not apply during the initial registration period because she was a minor child and was told it was not necessary. The applicant also submits evidence in an attempt to establish continuous residence and continuous physical presence in the United States during the qualifying period. Specifically, the applicant submits:

1. Copies of Ident-A-Kid identification cards issued on October 3, 2005, and September 26, 2006, and, a [REDACTED] identification for 2005-2006.
2. Copies of a Attendance Summary issued on January 18, 2007; a VIP Report for the week of February 27, 2006 from [REDACTED] and a First Grade Report Card for the 2006 -2007 school year from Winston-Salem/Forsyth County Schools.
3. Copies of a Certificate to Return to School and an Admission Slip dated December 15, 2006.
4. A copy of a letter from the Winston-Salem/Forsyth County Schools Office of Student Assignment dated April 14, 2005 a Notification of 2006/2007 School Assignment, and a copy of a Welcome to School sheet dated September 18, 2003.
5. Copies of the applicant's birth certificate with English translation, her passport, and a U.S. visa issued on February 21, 2001.
6. A copy of a letter from Internal Revenue Service dated March 21, 2005.
7. Copies of a bill from Central States Southeast and Southwest Areas Health and Welfare Fund dated January 2, 2007; a voucher from Forsyth Pediatrics at RobinHood dated December 15, 2006; bills dated June 21, 2001 and July 19, 2002; and a final notice from The North Carolina Baptist Hospitals, Inc., a letter from the North Carolina State WIC Director dated June 1, 2005, the applicant's immunization record, and a receipt from Community Care Center Centro Clinico dated December 2001.
8. A copy of a Certificate from [REDACTED] Director [REDACTED] Ministerio Hispano De Winston Salem; letters from Rev. [REDACTED] and [REDACTED] Preschool Director, of New Hope United Methodist Church; and a statement from [REDACTED]
9. A statement from [REDACTED] the applicant's mother, and copies of Ms. [REDACTED] Social Security card, employment authorization cards and a State of North Carolina Driver License issued on October 17, 2006.

The applicant also submits evidence that is already part of the record.

[REDACTED] states that the applicant has been a member of his church since 2001. However, this statement has little evidentiary weight or probative value as it does not provide basic information that is expressly required by 8 C.F.R. § 244.9(a)(2)(v). Specifically, the director does not explain the origin of the information to which he attests, nor does he provide the address where the applicant resided during the period of his involvement with the church. [REDACTED] states that the applicant was baptized in his church on July 7, 2002, and [REDACTED] states that the applicant was a preschool student at the church from August 2003 through May 2004. Ms. [REDACTED] states that she has known the applicant's family since 2004. Therefore the affiants can only attest to the applicant's presence in the United States since those dates respectively.

██████████ states that her daughter is a minor who was born in El Salvador and only needs temporary protected status in the United States. ██████████ also provides evidence that she is currently a TPS-eligible alien. Therefore, the applicant is eligible for late initial registration as the child of a TPS-eligible alien.

The U.S. Visa was issued in San Salvador on February 21, 2001. CIS records show that the applicant arrived in the United States on Delta Airlines Flight ██████████ at Atlanta on April 16, 2001. This is the earliest date presented as evidence of the applicant's presence in the United States during the requisite period. Therefore, the applicant cannot meet the requisite date of entry, continuous residence, and continuous physical presence

The applicant has not submitted sufficient evidence to establish that she has met the criteria for continuous residence and continuous physical presence 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.