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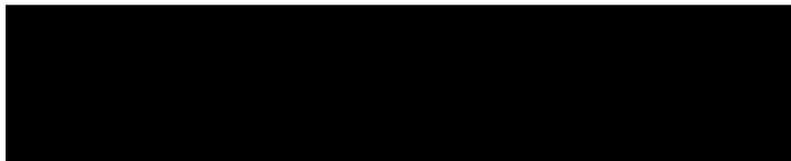
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U.S. Department of Homeland Security  
20 Massachusetts Ave., N.W., Rm. 3000  
Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

M1



FILE:



[EAC 05 116 71573]

Office: VERMONT SERVICE CENTER

Date: FEB 20 2008

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: 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, Chief  
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 claims to be a 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: 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.

On appeal, the applicant asserts she entered the United States with her spouse on May 13, 2000. The applicant states she did not apply for TPS during the initial registration period because she was planning on returning to El Salvador to take care of her children. The applicant asserts, "I do not have any avoidance [sic] from before March 13, 2001, because I did not work, went to school or either went to the clinic." The applicant requests that her application be reconsidered.

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....

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. The designation of TPS for El Salvadorans has been extended several times, with the latest extension valid until March 9, 2009, 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).

At the time the applicant filed her TPS application, she presented copies of: 1) her photo identification cards; 2) her birth certificate; 3) her marriage certificate that occurred on September 19, 1996, along with English translation; 4) her spouse's employment authorization card; 5) affidavits from [redacted] and an aunt, [redacted] of East Boston, Massachusetts, who attested to the applicant's residence in the United States prior to February 13, 2001; 6) medical documents from East Boston Neighborhood Health Clinic reflecting her appearances in October 2002, October 2003, and in March, April, May, October and November 2004; 7) a receipt dated March 1, 2005, from DHL Express; and 8) a cell phone statement issued in 2005 from Sprint.

On June 13, 2006, the applicant was requested to submit evidence establishing her continuous residence since February 13, 2001, and continuous physical presence since March 9, 2001, in the United States. The applicant, in response, provided additional copies of the documents that were previously provided along with the following:

- A rent receipt dated January 1, 2001, and an additional affidavit dated June 20, 2006, from [redacted] who indicated the applicant resided in her home from January 2001 to February 2002.
- Two receipts dated May 13, 2001, and September 28, 2002, from Greyhound Lines, Inc.
- A notarized affidavit from [redacted] Massachusetts, who attested to the applicant's residence in the United States "before February 13 of the year 2001, as well as after March 9 of the year 2001."
- A rent receipt dated April 1, 2002, and addressed to her spouse for property at [redacted] East Boston.
- Documentation dated during February through May 2003 from Verizon.

The director determined that the documents submitted were not sufficient to establish the applicant's eligibility for TPS and denied the application on August 30, 2006.

On appeal, the applicant reasserts her claim, but states that she has no additional evidence to submit to establish her residence and physical presence prior to March 13, 2001. The applicant submits additional copies of the documents that were previously provided along with medical documentation dated in 2006.

The affidavits from [redacted] raise questions to their authenticity. In her initial affidavit, the affiant made no mention of the applicant residing in her home. Upon the issuance of the notice dated June 13, 2006, the affiant amended her affidavit to indicate the applicant had been residing with her from January 2001 to February 2002. Moreover, the affidavit from the applicant's aunt must be viewed as having a self-evident interest in the outcome of proceedings, rather than as an independent, objective and disinterested third party.

Doubt cast on any aspect of the applicant's proof may, of course, lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the TPS application. *Matter of Ho*, 19 I&N Dec. 582, 591 (BIA 1988).

The applicant has not submitted sufficient evidence to establish her qualifying continuous residence or continuous physical presence in the United States during the requisite periods. She has, thereby, failed to establish that she has met the criteria described in 8 C.F.R. §§ 244.2(b) and (c). Consequently, the director's decision to deny the application for TPS will be affirmed.

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.