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U.S. Department of Homeland Security

Citizenship and Immigration Services

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ADMINISTRATIVE APPEALS OFFICE
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Washington, D.C. 20536



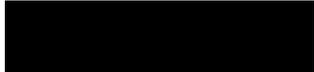
FILE: LIN 02 145 52062

Office: Nebraska Service Center

Date: DEC 03 2003



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 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.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. § 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Citizenship and Immigration Services (CIS) where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. *Id.*

Any motion must be filed with the office that originally decided your case along with a fee of \$110 as required under 8 C.F.R. § 103.7.

Cindy M. Gomez for
Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Nebraska 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. § 1254a.

The director determined that the applicant failed to provide conclusive evidence that she has been continuously physically present in the United States since March 9, 2001. He further determined that the applicant failed to submit any type of photo identification as requested. The director, therefore, denied the application.

On appeal, the applicant states that she is submitting proof of her residence in the United States from March 9, 2001 to the date of the filing of the appeal.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an alien 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.

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 and since February 13, 2001. 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 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 and since March 9, 2001. 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 TPS application shows that the applicant claimed to have entered the United States without inspection on December 20, 2000. The applicant filed her TPS application on March 26, 2002. The applicant was requested on June 11, 2002, to submit evidence to establish that she has continuously resided in the United States since February 13, 2001, and that she has been continuously physically present since March 9, 2001. She was also requested to submit a copy of her current birth certificate with English translation, and a current photo identity document. The director listed the examples of acceptable evidence she may submit to establish eligibility. Because the applicant, in response, only provided a copy of her birth certificate and evidence of her residence and presence up to February 8, 2001, the director denied the application.

On appeal, the applicant resubmits copies of envelopes, some containing illegible postmarks, that were previously addressed by the director. She submits four additional envelopes postmarked on 10 August 2001, 14 November 2001, 6 (month illegible) 2001, and 9 December 2001. The applicant also submits two rent receipts dated March 3, 2001 and April 4, 2001. Both receipts, as well as the receipt dated January 1, 2000 previously furnished and addressed by the director, are numbered as receipt "No. 100." If the receipts were numbered at the time they were written, it is reasonable to believe that they would not have the same number. Moreover, as pointed out by the director in his decision, generic over-the-counter receipts, without supporting documentary evidence, are not acceptable. Furthermore, it is noted that the envelopes, addressed to the applicant and sent from Santos Cruz Viana in El Salvador, closely resemble the handwriting on the rent receipts. Additionally, it is noted that although the applicant claimed to have entered the United States on December 20, 2000, she submits a copy of an envelope postmarked November 6, 2000.

The conflicting information furnished greatly reduces the credibility of other documents contained in the record. The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. Furthermore, the statement from Rosa Perlera, furnished on appeal, claiming that she has known the applicant since May 2001, is unsupported by any documentary evidence. Without corroborative evidence, the affidavits from acquaintances do not substantiate clear and convincing evidence of the applicant's residence in the United States. Even if accepting the statement as true, it would

show the applicant's presence in the United States since May 2001. It fails to establish the applicant's continuous physical presence in the United States since March 9, 2001.

The applicant has failed to establish that she met the criteria for continuous residence since February 13, 2001, and continuous physical presence since March 9, 2001, as described in 8 C.F.R. § 244.2(b) and (c).

The burden of proof is upon the applicant to establish 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.