



U.S. Citizenship
and Immigration
Services

MI

[Redacted]

FILE: [Redacted]

Office: NEBRASKA SERVICE CENTER

Date: 4/15/04

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:

[Redacted]

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

Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

DISCUSSION: The application was denied by the Director, Nebraska Service Center. A subsequent appeal was dismissed by the Director, Administrative Appeals Office (AAO). The applicant filed a motion to reopen that was subsequently dismissed by the AAO. The matter is again before the AAO on a second motion to reopen. The motion will be dismissed, and the previous decision of the AAO will be affirmed.

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 after determining that the applicant failed to establish she: 1) had continuously resided in the United States since February 13, 2001; and 2) had been continuously physically present in the United States since March 9, 2001.

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 entry on or prior to February 13, 2001, 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. A subsequent extension of the TPS designation has been granted by the Secretary of the Department of Homeland Security, with validity until March 9, 2005, 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).

On August 10, 2001, the applicant was provided the opportunity to submit evidence establishing her date of entry, her continuous residence since February 13, 2001, and her continuous physical presence since March 9, 2001 to the date the application was filed. The applicant did not present any evidence of her date of entry, her residence in the United States since February 13, 2001, or her physical presence in the United States since March 9, 2001. Therefore, the director denied the application.

The applicant appealed the director's decision to the AAO on February 14, 2002. The AAO summarily dismissed the appeal on September 25, 2002, after concluding that the applicant had failed to identify specifically an erroneous conclusion of law or a statement of fact in this proceeding, and that the applicant failed to submit a brief and/or evidence within 45 days as stated.

On a motion to reopen, filed on October 25, 2002, the applicant reasserted her claim of eligibility for TPS and submitted evidence in an attempt to establish her qualifying residence in the United States. The AAO dismissed the motion on April 15, 2003, after determining that the evidence presented by the applicant had failed to establish continuous residence and continuous physical presence in the United States during the required period.

The applicant filed a second motion to reopen on May 15, 2003. The applicant reasserts her claim of eligibility for TPS and submits evidence in an attempt to establish her qualifying residence in the United States.

The applicant submits the following evidence:

1. Copy of an October 24, 2002 letter from the Consul General of El Salvador located in Dallas, Texas.
2. Copy of the applicant's passport.
3. Copy of a Resident Alien Receipt Card issued under the name of
4. Copy of an October 14, 2000 pay stub issued by Doubletree.
5. Copy of a March 5, 2001 "Happy Second Anniversary" certificate issued by to
6. Copy of a May 4, 2001 "Stellar Performance" letter from and Resorts, to
7. Copy of an August 2, 2001 EAD issued to the applicant.
8. Copy of an August 28, 2001 application for Social Security Card for the applicant.
9. A May 14, 2003 letter from Ruben Rodriguez, from, stating that the applicant had an account at the bank since October 24, 2001.

In her letter, states that the applicant is a Salvadoran national and that she was issued a passport on December 18, 1988. The copy of the passport provided by the applicant also establishes that it was issued in Dallas, Texas, on December 18, 1988. This establishes that the applicant was present in the United States on that date. It does not establish the applicant's continuous residence in the United States during the qualifying period.

The applicant furnished documents under the name of (os. 3, 4, 5, and 6 above). The applicant has not established that she and are one and the same person. Therefore, these documents will not be considered in establishing the applicant's continuous residence and continuous

physical presence in the United States during the qualifying period. In addition, all of the other evidence submitted by the applicant is dated subsequent to the dates required to establish continuous residence and physical presence during the qualifying period. Thus, it is of no probative value.

Furthermore, on motion, counsel states that he is enclosing a copy of "false resident Alien Card issued under name of [REDACTED] with photograph of Applicant." The record reflects that the applicant utilized this fraudulent card to obtain employment. The fraudulent card is now furnished to CIS in an effort to facilitate the applicant's eligibility for TPS. Pursuant to section 212(a)(6)(C)(i) of the Act, 8 U.S.C. § 1182(a)(6)(C)(i), any alien who, by fraud or willfully misrepresenting a material fact, seeks to procure (or has sought to procure or has procured) a visa, other documentation, or admission into the United States or other benefit provided under this Act is inadmissible. The applicant, in this case, is seeking to procure TPS benefits under section 244 of the Act. The applicant, therefore, appears inadmissible to the United States pursuant to section 212(a)(6)(C)(i) of the Act.

Accordingly, the motion to reopen will be dismissed, and the previous decisions of the AAO will be affirmed.

ORDER: The motion to reopen is dismissed. The previous decisions of the AAO dated September 25, 2002 and April 15, 2003, are affirmed.