



U.S. Citizenship  
and Immigration  
Services

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invasion of personal privacy

*Mi*

[Redacted]

FILE:

[Redacted]

Office: VERMONT SERVICE CENTER

Date: JUL 28 2004

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.

*Cinder N. Gomez for*  
Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, Vermont 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 denied the application because the applicant failed to establish she was eligible for late registration. The director also found that the applicant had failed to establish her qualifying continuous physical presence in the United States during the requisite time period.

On appeal, the applicant asserts that documentation contained in the record and discussed by the director in his denial decision was not, in fact, submitted by the applicant. The applicant requests that her record be reviewed.

In order to establish eligibility for TPS, an applicant must satisfy each of several eligibility requirements.

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 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 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, or
  - (2) registers for TPS during any subsequent extension of such designation, if the applicant meets the above listed requirements and:
    - (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 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.

The phrase brief, casual, and innocent absence, as defined in 8 C.F.R. § 244.1, means a departure from the United States that satisfies the following criteria:

- (1) Each such absence was of short duration and reasonably calculated to accomplish the purpose(s) for the absence;
- (2) The absence was not the result of an order of deportation, an order of voluntary departure, or an administrative grant of voluntary departure without the institution of deportation proceedings; and
- (3) The purposes for the absence from the United States or actions while outside of the United States were not contrary to law.

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 initial registration period for El Salvadorans was from March 9, 2001, through September 9, 2002.

The first issue to be addressed in this proceeding is whether the applicant is eligible for late registration.

The record of proceeding confirms that the applicant filed her Form I-821, Application for Temporary Protected Status, with the Immigration and Naturalization Service, now Citizenship and Immigration Services (CIS), on October 15, 2002, after the initial registration period had closed.

To qualify for late registration, the applicant must provide evidence that during the initial registration period, he or she was either in a valid immigration status, had an application pending for relief from removal, was a parolee, or was the spouse or child of an alien currently eligible to be a TPS registrant, and had filed an

application for late registration within 60 days of the expiration or termination of the conditions described in 8 C.F.R. § 244.2(f)(2).

In support of the Form I-821, the applicant submitted the following documentation:

1. A "rent letter," dated October 2, 2002, from landlord, [REDACTED] stating that the applicant has been his tenant for the past two years and has always paid her rent of \$500 on time;
2. A letter, dated October 2, 2002, from [REDACTED] stating that the applicant has been employed by his establishment, the [REDACTED] Huntington Station, New York, from September 1, 2001 to the date of the letter;
3. Copies of pages from the applicant's El Salvadoran passport; and,
4. An un-translated copy of the applicant's El Salvadoran birth certificate.

On March 26, 2003, the applicant was requested 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 continuous physical presence in the United States from March 9, 2001, to the date of filing the application.

The record reflects that, in response to the director's request, the applicant submitted:

5. A "rent letter," dated April 8, 2003, from landlord, [REDACTED] stating that the applicant has been a tenant in his home from January 2001 to the date of the letter, and that she pays her rent of \$250 on time; and,
6. Handwritten rent receipts indicating that the applicant paid [REDACTED] \$250 monthly from January through February 2001, and August through October 2002.

The director found this evidence insufficient and denied the application on May 15, 2003.

A review of the record reveals that the applicant has not submitted any evidence to establish that she has met any of the criteria for late registration described in 8 C.F.R. § 244.2(f)(2). Consequently, the director's conclusion that the applicant has failed to establish her eligibility for late registration will be affirmed.

The second issue to be addressed in this proceeding is whether the applicant has established her continuous physical presence in the United States since March 9, 2001.

In his decision to deny the application, the director stated that the applicant had provided contradicting documentation that cast doubt on the applicant's claims of continuous physical presence. The director noted that the "rent letters" (No. 1 and 5, above) and rent receipts (No. 6, above) from two different landlords, each claim that the applicant paid different amounts of rent during parts of the same time periods.

Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988).

On appeal the applicant asserts that she only provided CIS with documentation from landlord, [REDACTED] and indicates that she did not submit the documentation contained in the record from landlord, [REDACTED]

The "rent letters" contained in the record are similar. It appears that each is typed in the same font and format. Each notes the applicant's address of record, and each is notarized by the same notary public, [REDACTED] Suffolk County, New York. Furthermore, the documentation provided by the applicant is not supported by any other corroborative evidence. On her Form I-821 application, the applicant claims to have lived in the United States since March 1999. It is reasonable to expect that the applicant would have some other type of contemporaneous evidence to support these rent letters and rent receipts; however, no such evidence has been provided.

The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. 8 C.F.R. § 244.9(b). In this case, the applicant has failed to submit any objective evidence to explain or justify the discrepancies in the documentation submitted. It is concluded that the documentation submitted by the applicant is not sufficient to establish that she satisfies the continuous physical presence requirements described in 8 C.F.R. § 244.2(b). Consequently, the director's decision to deny the application for temporary protected on this basis will also be affirmed.

Beyond the decision of the director, the applicant has also not submitted sufficient credible evidence to establish her continuous residence in the United States since February 13, 2001. For this reason as well, the application may not be approved.

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.