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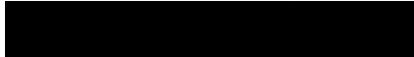


Office: VERMONT SERVICE CENTER

Date: JAN 21 2005

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, Director
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 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 continuous physical presence in the United States since March 9, 2001.

On appeal, the applicant submits additional evidence.

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, 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 § 244.3;
- (e) Is not ineligible under § 244.4; and
- (f)
 - (1) Registers for Temporary Protected Status 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 parole; or
 - (iv) The applicant is a spouse or child of an alien currently eligible to be a TPS registrant.
- (g) Has filed an application for late registration with the appropriate Service director, within a 60-day period immediately following the expiration or termination of conditions described in paragraph (f)(2) of this section.

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. 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).

The applicant did not submit any evidence to establish her qualifying continuous residence or physical presence in the United States with the Form I-821, Application for Temporary Protected Status.

On April 23, 2003, the applicant was requested to submit evidence establishing continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States since March 9, 2001. The applicant, in response, provided:

1. a letter dated May 7, 2003, from [REDACTED] attesting that the applicant had lived continuously in the United States since February 13, 2001; and,
2. two generic rent receipts in the amount of \$500 each signed by [REDACTED] on December 1, 2000 and January 1, 2001, respectively.

The director determined that the applicant had failed to submit sufficient evidence to establish continuous physical presence in the United States since March 9, 2001, and denied the application on June 12, 2003.

On appeal, the applicant submits the following:

3. an affidavit dated January 29, 2003, from Rev. [REDACTED] of St. Benedict's Parish, Somerville, Massachusetts, stating that the applicant is a member of his parish and he has known her since January 2001; and,
4. a notarized letter dated June 30, 2003, from [REDACTED] stating that the applicant, currently residing at [REDACTED] has lived continuously in the United States "since before February 13, 2001."

The affidavits submitted in response to the Notice of Intent to Deny and on appeal are not sufficient to establish the applicant's continuous physical presence in the United States since March 9, 2001. The affidavit from Rev. [REDACTED] 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 pastor does not provide the address where the applicant resided during the period of her involvement with the church. The affidavit from Mr. [REDACTED] is not sufficient to establish the applicant's continuous physical presence in the United States during the requisite time frames. Mr. [REDACTED] does not explain the origin of the information to which he attests. Ms. [REDACTED] affidavit is not sufficient because she does not explain the origin of the information to which she attests, nor does she provide the applicant's addresses in the United States since February 13, 2001.

Additionally, the copies of generic rent receipts provided by the applicant are not supported by any other corroborative contemporaneous evidence. While 8 C.F.R. § 244.9(a)(2)(vi) specifically states that additional documents such as generic rent receipts "may" be accepted in support of the applicant's claim, the regulations do not suggest that such evidence alone is necessarily sufficient to establish the applicant's qualifying continuous

residence or physical presence in the United States. The applicant claims to have lived in the United States since August 2000. It is reasonable to expect that the applicant would have some other type of contemporaneous evidence to support these 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).

It is determined that the documentation submitted by the applicant is not sufficient to establish that she satisfies the physical presence requirements described in 8 C.F.R. § 244.2(b). Consequently, the director's decision to deny the application for temporary protected status will be affirmed.

It is noted that the director stated in the Notice of Decision that the applicant had submitted sufficient evidence to establish continuous residence in the United States since February 13, 2001. That portion of the director's decision is withdrawn. The applicant has submitted only copies of two generic rent receipts, four affidavits of witness, and a letter from the pastor of the applicant's church to establish her continuous residence in the United States since February 13, 2001. These documents are not supported by any other corroborative evidence. While 8 C.F.R. § 244.9(a)(2)(vi) specifically states that additional documents such as generic rent receipts "may" be accepted in support of the applicant's claim, the regulations do not suggest that such evidence alone is necessarily sufficient to establish the applicant's qualifying residence or physical presence in the United States. Additionally, the letter from the applicant's pastor 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 pastor does not provide the address where the applicant resided during the period of her involvement with the church. The applicant claims to have lived in the United States since August 2000. It is reasonable to expect that she would have some other type of contemporaneous evidence to support the photocopied rent receipts and affidavits; however, no such evidence has been provided. It is determined that the documentation submitted by the applicant is not sufficient to establish that she satisfies the residence requirement described in 8 C.F.R. § 244.2(c).

The applicant also has not provided sufficient evidence to establish her identity. Therefore, the application also must be denied for these reasons.

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.