

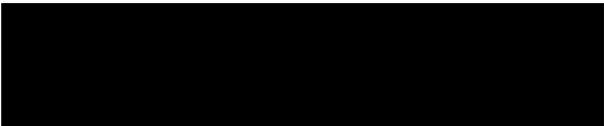
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U.S. Citizenship
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Services

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FILE:



Office: VERMONT SERVICE CENTER

Date: MAY 11 2006

[EAC 02 130 51384]

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 that 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 that she didn't realize that more evidence was needed and that she will gladly send more if more is needed.

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; 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 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.

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. An extension of the TPS designation has been granted with validity until September 9, 2006, 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 May 7, 2003, the applicant was requested to submit evidence establishing her residence since February 13, 2001, and physical presence since March 9, 2001, in the United States as well as her date of entry into the United States. The applicant failed to respond to the Notice of Intent to Deny.

The director determined that the applicant had failed to submit sufficient evidence to establish her eligibility for TPS and denied the application on September 2, 2003.

On appeal, the applicant reasserts her claim and submits the following documentation:

1. A letter from Giant Express Inc., dated May 17, 2003, in which it is stated that the applicant has been a client of the company, using their services on a monthly basis, since January of 2001, and that she resides at [REDACTED]
2. An affidavit from [REDACTED] dated September 24, 2003, in which she states that she has known the applicant since January of 2001, that they met in a restaurant, and that she has seen her weekly;

3. An affidavit from [REDACTED] dated September 16, 2003, in which she states that she has known the applicant since January of 2001, that they met in a store, and that she has known the applicant as a friend from El Salvador;
4. An affidavit from [REDACTED] dated September 11, 2003, in which he states that he has known the applicant since March of 2003, and that they are both tenants at [REDACTED] NY;
5. A rent verification letter, dated September 11, 2003, in which [REDACTED] states that the applicant has rented a room from her since March 28, 2003, at [REDACTED] NY; and,
6. An affidavit from [REDACTED] dated September 11, 2003, in which he states that he has known the applicant since January of 2001, that she is his wife, and that she came to live with him in the United States.

The applicant claims to have lived in the United States since January 2, 2001. It is reasonable that the applicant would have some other type of contemporaneous evidence to support the affidavits; however, no such evidence has been provided. The letter from Giant Express, Inc., (No. 1 above) does not explain the origin of the information being attested to nor is the nature of the relationship between the company and the applicant clearly defined. In addition, although the company letter is dated, May 17, 2003, and states that the applicant resides at [REDACTED] the rental verification letter (No. 5 above) states that the applicant has been renting a room at [REDACTED] since March 28, 2003.

Although the affiants claim to have knowledge of the applicant's presence and residence in the United States since January of 2001, these affidavits are not supported by any contemporaneous evidence. The applicant 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.