



U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
[EAC 02 206 51094]

Office: VERMONT SERVICE CENTER

Date: **NOV 03 2005**

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.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Vermont Service Center. The director subsequently dismissed a motion to reopen the case. The case is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant claims to be a 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 dismissed the motion because the applicant failed to establish that she had continuously resided in the United States since February 13, 2001, and had been continuously physically present in the United States since March 9, 2001.

On appeal, the applicant submits a letter.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an applicant is eligible for TPS 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 reparole; 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.

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. On July 9, 2002, the Attorney General announced an extension of the TPS designation until September 9, 2003. Subsequent extensions of the TPS designation have been granted, with the latest valid 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 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 her burden of proof the applicant must provide supporting documentary evidence of eligibility apart from her own statements. 8 C.F.R. § 244.9(b).

The applicant filed her initial Form I-821, Application for Temporary Protected Status, on May 28, 2002. In support of her initial application, the applicant submitted a photocopy of her El Salvadoran birth certificate, with English translation, and an incomplete photocopy of her El Salvadoran personal identification card (*cédula*).

On November 13, 2002, and again on June 23, 2003, the director requested the applicant to sign her application and to submit evidence to establish her qualifying continuous residence and continuous physical presence in the United States during the requisite time periods. In response, the applicant resubmitted her application, with the required signature. She also submitted the following documentation:

1. Photocopies of her Employment Authorization Document (EAD) and Social Security card;
2. A photocopy of a blank Bank Of America savings deposit slip, with a pre-printed date of March 2003; and,
3. A photocopy of an undated account statement from [REDACTED] inc.

The director initially denied the application, on erroneous grounds, in a decision dated August 20, 2003. The director subsequently determined that the applicant had failed to establish her qualifying continuous residence and continuous physical presence in the United States during the requisite time periods and issued a second denial of the application on October 1, 2003. On December 1, 2003, the applicant filed an appeal of the director's August 20, 2003 decision. Because the appeal was not filed within the time allotted, the director accepted the appeal as a motion to reopen. In support of the motion, the applicant submitted the following additional documentation:

4. Photocopies of Global Express Money Order Purchaser's Claim Receipts, issued to [REDACTED] dated July 17, 1997, and November 11, 2001;
5. An incomplete photocopy of an AT&T account statement, issued to [REDACTED] dated August 8, 1998;
6. A photocopy of an identification card issued to [REDACTED] on September 28, 1999, by the [REDACTED] Center for Employment & Training; and,
7. An incomplete photocopy of a Verizon duplicate bill, issued to [REDACTED] dated September 16, 2003.

The director determined that the applicant had failed to establish that she had continuously resided in the United States since February 13, 2001, and had been continuously physically present in the United States since March 9, 2001. Therefore, on April 9, 2004, the director reaffirmed his decision to deny the application. The applicant filed the instant appeal of that decision on May 6, 2004. In support of her appeal, the applicant submits:

8. A letter, dated May 3, 2004, from [REDACTED] Hyattsville, Maryland, stating that the applicant had been employed from February 1999 through December 2003.

The applicant claims to have lived in the United States continuously from August 30, 1996, to the date of filing her TPS application on May 28, 2002. It is reasonable to assume that she would have a variety of contemporaneous evidence to support this claim. The employment letter (No. 8, above) 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)(i). Specifically, it is not in the form of an affidavit and does not provide the address where the applicant resided during the period of her employment, the exact period(s) of employment, the period(s) of layoff (if any), and the applicant's specific duties with the company. The remaining documentation provided by the applicant is either not in her name, undated, or dated after the dates required to establish her TPS eligibility.

It is concluded that the applicant has not submitted sufficient evidence to establish her qualifying continuous residence in the United States since February 13, 2001, or her continuous physical presence in the United States since March 9, 2001. Consequently, the director's decision to deny the application for Temporary Protected Status will be affirmed.

Beyond the decision of the director, the applicant has not submitted a complete identity document, in her name, bearing her photograph and/or fingerprint, as required under the provisions of 8 C.F.R. § 299.9(a)(1)(ii) and (iii). The application must also be denied for this reason.

The application will be denied for the above stated reasons, with each considered as an independent and alternative basis for denial. 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.