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U.S. Department of Homeland Security
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Washington, DC 20529

U.S. Citizenship and Immigration Services

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[redacted]

FILE: [redacted] [EAC 02 250 51498] Office: VERMONT SERVICE CENTER Date: NOV 0 7 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, 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 a statement and 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 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 has been granted, with the latest extension granted until September 9, 2006, upon the applicant's re-registration during the requisite time period.

The initial registration period for Salvadorans was from March 9, 2001 to September 9, 2002. The record reveals that the applicant filed her Form I-821, Application for Temporary Protected Status, with Citizenship and Immigration Services, on July 25, 2002.

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 indicated on her Form I-821 that she entered the United States in February 2001. She submitted the following evidence:

1. a letter dated May 16, 2002, from Pastor of in Damascus, Maryland, stating that he has known the applicant since 1997 and she became a member of his church in the year 2000;

2. an affidavit dated July 18, 2002, from stating that the applicant has lived at since February 2000, and pays a monthly rent of $400;

3. an affidavit from stating that she has known the applicant since January 2001;

4. an affidavit dated July 24, 2003, from stating that the applicant lives with him and he has provided her with full financial support since she came to the United States in May 2000; and,

5. a photocopy of a State of Maryland birth certificate indicating that was born to and on March 11, 2003.

On January 21, 2004, the applicant was requested to submit additional evidence establishing her qualifying continuous physical presence in the United States during the requisite time period. She was also requested to submit the final court dispositions of all arrests since her arrival in the United States and a local police clearance certificate for each jurisdiction in which she had resided for six months or more within the past three years. The applicant, in response, provided a police clearance from the State of Maryland Department of Public Safety and Correctional Services, Criminal Justice Information System Central Repository stating that no criminal record was found for date of birth May 6, 1980.

The director determined that the applicant had failed to submit sufficient evidence to establish her qualifying continuous physical presence in the United States during the requisite period and denied the application on July 13, 2004.

On appeal, the applicant states that her husband, is the "sole provider of food and housing for me and my daughter since I arrived into this county in May of 2000." She submits the following additional evidence:

6. a letter dated October 21, 2002, from the Maryland Women, Infants and Children (WIC) Program informing the applicant that she had been temporarily certified to receive benefits for a two-month period ending on April 29, 2003;

7. a letter dated March 11, 2003, from Holy Cross Hospital in Baltimore, Maryland, informing the applicant that her newborn baby had passed a hearing screening;

8. a letter dated June 24, 2003, from the Social Security Administration acknowledging the applicant's application for a Social Security card;

9. a photocopy of a Pepco billing statement for the service period from May 17, 2004 to June 15, 2004;

10. photocopies of insurance documents dated September 30, 2002, from Paramount Insurance Company;

11. a photocopy of a certificate of compliance dated April 18, 2003, from the United States Department of Housing and Urban Development (HUD) concerning the subsidized apartment the applicant and Mr. occupy; and,

12. a lease agreement dated April 18, 2003.

The letter from (No. 1 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)(v). Specifically, the pastor does not explain the origin of the information to which he attests, nor does he provide the address where the applicant resided during the period of her involvement with the church. The Maryland birth certificate (No. 5 above), the letter from the WIC Program (No. 6 above), the letter from Holy Cross Hospital (No. 7 above), the letter from the Social Security Administration (No. 8 above), the Pepco billing statement (No. 9 above), the insurance documents (No. 10 above), the HUD certificate (No. 11 above), and the lease agreement (No. 12 above) do not establish the applicant's continuous physical presence in the United States because they are dated after the requisite period.

The affidavits from Mr. (No. 2 above), Ms. (No. 3 above), and Mr. (No. 4 above) are not sufficient to establish the applicant's qualifying continuous residence and continuous physical presence in the United States during the requisite periods. The applicant claims to have lived in the United States since February 2001. It is reasonable to expect that she would have some type of contemporaneous documents to corroborate this affidavit; however, no such evidence has been provided. Without corroborative evidence, affidavits are not sufficient to establish an applicant's qualifying continuous residence and continuous physical presence. Moreover, affidavits are only specifically listed as acceptable evidence of employment and membership in organizations such as churches or labor unions as described at 8 C.F.R. § 244.9(a)(2)(i) and (v).

Furthermore, there are discrepancies in the applicant's date of entry into the United States. As stated above, the applicant indicated on the Form I-821 that she entered the United States in February 2001. However, Pastor (No. 1 above) states that he has known the applicant since 1997 and she joined his church in 2000. Mr. (No. 2 above) states the applicant has been his tenant since February 2000, while Ms. Aparicio (No. 23 above) states that she has known the applicant since January 2001. Finally, Mr. (No. 4 above) states the applicant came to the United States in May 2000. If the applicant did not enter the United States until February 2001 as she states on her Form I-821, she could not possibly have joined Pastor church in 2000, been Mr. tenant since January 2001, known Ms. since January 2001, or lived with Mr. since May 2000. The applicant has not provided any explanation for these discrepancies in her claimed date of entry into the United States. 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 visa petition. Further, it is incumbent on 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. (Comm. 1988).

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 requirement 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.

Beyond the decision of the director, the applicant has not submitted sufficient evidence to establish continuous residence in the United States since February 13, 2001 as described at 8 C.F.R. § 244.2(c). Therefore, the application also must 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.