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FILE:



Office: TEXAS SERVICE CENTER

Date: OCT 03 2005

[SAC 02 106 52966]

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, Texas 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 she had continuously resided in the United States since February 13, 2001 and been continuously physically present in the United States since March 9, 2001.

On appeal, the applicant states:

I have been here since February 09, 2001 but please understand that with out any legal documents it becomes hard to obtain any documents as you requested or get a Texas ID,. My daughter was only 3 years of age and was not able to go to school yet. But I am sending an affidavit of my husband's friends that know me since we arrived since the day I arrived they visit us on February 9, 2001.

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 January 8, 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. The applicant, in response, provided the following documentation:

1. A letter dated January 13, 2003 from her husband, [REDACTED], who states that his wife came to the United States on February 9, 2001 and that she is living with him in Houston, Texas. He further states that she has no documents in her name in this "country of after February 13, 2003."
2. A copy of her Republic of El Salvador passport issued abroad on February 9, 2000.

The director determined that the applicant had failed to submit sufficient evidence to establish her eligibility for TPS and denied the application on March 25, 2004.

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

3. An affidavit from [REDACTED] dated April 11, 2004. Ms. Reyes states that the applicant has been living in the United States since February 9, 2001 at the home of her sister-in-law in Houston, Texas.
4. An affidavit from [REDACTED] dated April 12, 2004. Mr. [REDACTED] states that the applicant is his friend and that she arrived in the United States on February 9, 2001 with her daughter [REDACTED].

Affidavits and letters from family members and acquaintances are not, by themselves, persuasive evidence of residence or physical presence. It is determined that the applicant has not submitted sufficient evidence to establish her continuous residence or continuous physical presence in the United States during the period from February 13, 2001, until early 2002. She 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.

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 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.