



U.S. Citizenship
and Immigration
Services

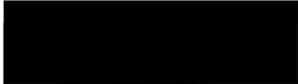
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FILE:



OFFICE: VERMONT SERVICE CENTER

DATE: JUN 26 2001

[EAC 02 068 53301]

IN RE:

Applicant:



APPLICATION:

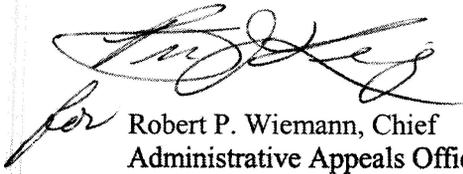
Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

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.


for Robert P. Wiemann, Chief
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 had failed to establish that she had continuously resided in the United States since February 13, 2001, and had been continuously physically present from March 9, 2001, to the date of filing the application.

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 alien who is a national of a foreign state designated by the Attorney General 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 8 C.F.R. § 244.4; and
- (f)
 - (1) Registers for TPS 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 term *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 term *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.

Persons applying for TPS offered to El Salvadorans must demonstrate that they have continuously resided in the United States since February 13, 2001, and that they have been continuously physically present 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 extension 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 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 record shows that the applicant filed her initial TPS application on December 17, 2001. In a notice of intent to deny dated November 3, 2003, the applicant was requested to submit evidence establishing her continuous residence and continuous physical presence in the United States during the requisite period. The director noted that the evidence furnished by the applicant, in response, was insufficient to overcome the grounds of denial; therefore, the director denied the application on March 19, 2004.

On appeal, the applicant asserts that she has been residing in the United States since February 2000. She submits:

1. A hand-written statement dated April 14, 2004, signed by a person whose signature is illegible, by a "Capt. Charles Di-Sciscio, Revere Aux Police," and by [REDACTED] indicating that they met the applicant about "three years ago." The persons who signed the statement failed to identify themselves, list their addresses and also the address of the applicant; nor was the statement attested to or notarized.
2. A statement dated April 15, 2004, from [REDACTED] indicating that her sister (the applicant) arrived in the United States during the year 2000, that the applicant lived with her during the beginning of the year 2001, and that she has been continuously residing in the United States since her arrival.
3. A copy of a generic receipt signed [REDACTED] "from AVON" dated February 2001. It is noted that the year (2001) had been altered.
4. Copies of eight generic rent receipts for the rental of [REDACTED] dated from May 1, 2000 to December 1, 2000, inclusive.

5. A letter dated April 9, 2004, from the East Boston Neighborhood Health Center indicating that the applicant was a patient at the Health Center and initially registered on October 31, 2001, and has subsequently been seen on December 26, 2001; March 22, 2002; November 25, 2002; May 27, 2003; December 19, 2003; February 13, 2004; and April 9, 2004.

Regulations at 8 C.F.R. § 244.9(a)(2) do not expressly provide that personal affidavits on an applicant's behalf are sufficient to establish the applicant's qualifying continuous residence or continuous physical presence in the United States. Moreover, the statements provided by the applicant (detailed in Nos. 1 and 2 above) were not supported by any other corroborative evidence.

It is noted that the dates on the receipts detailed in Nos. 3 and 4 above were all altered. Additionally, the rent receipts were consecutively numbered, they were signed by a person whose name is illegible, the complete address of the property rented was illegible, and a telephone number of the landlord was not included. Nor did the applicant submit supporting evidence, such as a copy of a rental agreement or a notarized affidavit from her landlord. It is further noted that the record contains no evidence that the applicant had claimed to have resided at the address listed on the rental receipt. 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 application. It is incumbent upon 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, in fact, lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988). The applicant has failed to submit any objective evidence to explain or justify the discrepancies in the evidence presented. Therefore, the reliability of the remaining evidence offered by the applicant is suspect, and it must be concluded that the applicant has failed to satisfy the continuous residence and continuous physical presence requirements described in 8 C.F.R. § 244.2(b) and (c).

The remaining evidence (No. 5 above) only establishes the applicant's continuous residence and continuous physical presence since October 2001. The applicant claimed to have lived in the United States since February 2000. It is reasonable to expect that the applicant would have some other type of contemporaneous evidence to support her claim; however, no such evidence has been provided.

The applicant has failed to establish that she has met the criteria for continuous residence since February 13, 2001, and continuous physical presence since March 9, 2001, as described in 8 C.F.R. § 244.2(b) and (c). Consequently, the director's decision to deny the application 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 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.