U.S. Department of Homeland Security
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U.S. Citizenship and Immigration Services

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[redacted]

FILE: [redacted] Office: Vermont Service Center Date: SEP 01 2006
[EAC 01 194 50756]

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.

Cindy N. Gomez 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 (AAO) on appeal. The appeal will be remanded.

The applicant is stated 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 denied the application because the applicant failed to establish she had continuously resided in the United States since February 13, 2001.

On appeal, the applicant asserts her claim of eligibility for TPS and submits additional evidence in support of her claim.

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 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.

Further, 8 C.F.R. § 103.2 provides that any document containing foreign language shall be accompanied by an English translation:

> (b) Evidence and processing.
>
> (3) Translations. Any document containing foreign language submitted to the Service shall be accompanied by a full English language translation which the translator has certified as complete and accurate, and by the translator's certification that he or she is competent to translate from the foreign language into English.

Persons applying for TPS offered to El Salvadorans must demonstrate entry on or prior to February 13, 2001, 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 by the Secretary of the Department of Homeland Security, with the latest extension valid until September 9, 2007, 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 applicant provided the following documentation along with her application for TPS:

1. A copy of the applicant's birth certificate translation in English.
2. A copy of her Maryland identification card issued on February 18, 1999.
3. Copies of money transfers to her bank account in El Salvador dated January 25, 1999 and February 27, 1999.
4. Copies of the birth certificates for the applicant's two children born in Maryland on June 22, 1995, and August 17, 1996.

On September 5, 2002, the applicant was requested to submit evidence establishing her legal name, her nationality, and her continuous residence since February 13, 2001 in the United States. The applicant, in response, provided the following documentation:

5. A copy of the applicant's marriage certificate translation in English.
6. A copy of a New Hire Notice dated April 3, 2002, addressed to the applicant from the Montgomery County Department of Social Services.
7. A copy of her Statement of Account dated September 19, 2002 from the Chevy Chase Bank in Laurel, Maryland.
8. A copy of the applicant's Social Security Statement dated June 11, 2001.
9. A copy of the applicant's statement of account from the Holy Cross Hospital indicating an admission date of July 2, 2001 and a discharge date of September 10, 2001.
10. A copy of the top portion of her bank statement from the Provident Bank, dated August 21, 2001.
11. A copy of an envelope addressed to the applicant and post marked August 27, 2002, from the Bilingual Assessment Team located in Rockville, Maryland.
12. A copy of her registration receipt issued by the Department of Recreation in Silver Spring, Maryland dated May 20, 2002.

The director determined that the applicant had failed to submit sufficient evidence to establish her qualifying residence in the United States since February 13, 2001, and denied the application on November 7, 2002. On appeal, the applicant reasserts her claim and submits additional documentation, including:

13. A copy of a statement for services rendered to the applicant from the Pathology Associates of Silver Spring, Maryland, dated September 1, 2002.
14. A copy of her bank statement from the Chevy Chase Bank, dated October 21, 2002.
15. A copy of the applicant's telephone bill dated August 25, 2002.
16. A copy of a letter from Provident Bank dated July 11, 2001.
17. A copy of an eligibility letter from the Montgomery County Department of Social Services dated July 16, 2001.
18. A copy of a lease extension agreement with Sawyer Realty Holdings LLC, Inc., signed by the applicant on December 21, 2001, for her apartment covering the period from February 1, 2002 to January 31, 2003, indicating an original lease date of December 8, 2000.
19. A copy of a summary of charges from the Holy Cross Hospital, Maryland, indicating that the applicant was admitted to the hospital on October 1, 2001.
20. A copy of the top portion of her bank statement from the Provident Bank, Maryland, dated August 21, 2001.

The copy of the lease agreement detailed in No. 18 reflects that the applicant and her husband were extending the lease on their current residence, and that the original lease commenced on December 8, 2000. In addition, while the letters detailed in Nos. 8 and 17 above are dated June 11, 2001 and July 16, 2001, respectively, both letters indicate these agencies had previous contact with the applicant at her current residence. This evidence supports the date indicated on the lease and corroborates the applicant's claim of qualifying continuous residence and physical presence in the United States. The remaining evidence submitted reflects that the applicant had maintained a continuous residence in the United States. The applicant has submitted sufficient evidence to

establish her qualifying residence in the United States since February 13, 2001. Therefore, the director's decision on this issue will be withdrawn.

However, a review of the record of proceedings reflects that the applicant submitted only an English translation of her birth certificate; therefore, the applicant has not established that she is a citizen and national of El Salvador.

The case will be remanded and the director shall consider the applicant's response in the issuance of a new decision.

As always in these proceedings, the burden of proof rests solely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361.

ORDER: The case is remanded to the director.