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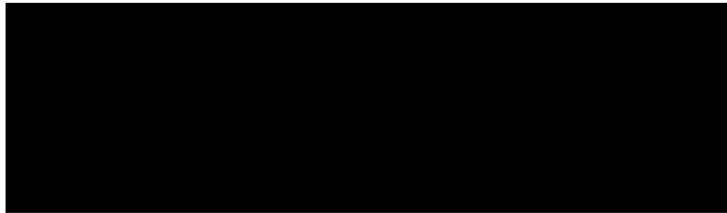


FILE: [REDACTED]
[EAC 02 172 50325]

Office: VERMONT SERVICE CENTER

Date: APR 27 2007

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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The applicant's Temporary Protected Status was withdrawn by the Director, Vermont Service Center, and the case is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of El Salvador who was granted Temporary Protected Status on June 19, 2003. The director subsequently withdrew the applicant's Temporary Protected Status on June 28, 2006, when it was determined that the applicant had been arrested by US Border Patrol Officers while attempting to illegally enter into the United States near Laredo, Texas on March 27, 2001.

The director may withdraw the status of an alien granted Temporary Protected Status under section 244 of the Act at any time if it is determined that the alien was not in fact eligible at the time such status was granted, or at any time thereafter becomes ineligible for such status. 8 C.F.R. § 244.14(a)(1).

On appeal, the applicant asserts her claim of eligibility for TPS.

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 program for El Salvadorans was granted from September 9, 2003 until March 9, 2005. Subsequent extensions of the TPS designation have been granted 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 submitted the following documentation as evidence:

1. A letter from [REDACTED] who stated that he has known the applicant since January 16, 2001, when she came to the United States;
2. A Sprint bill bearing the applicant's name and dated July 4, 2002;
3. A letter from the human resources department of Pritchard Industries, Inc. in which it is stated that the applicant has been employed by the company since December 4, 2001;
4. A bank statement from Chevy Chase Bank bearing the applicant's name and dated November 16, 2005
5. An Automobile Insurance Bill bearing the applicant's name and covering the policy period of August 24, 2005 to February 24, 2006;
6. A pay statement from [REDACTED] bearing the applicant's name as employee and dated May 16, 2005;

7. An affidavit from the assistant property manager of [REDACTED] in which it is stated that the applicant has been a tenant at [REDACTED] Herndon, Virginia, from April 8, 2000 to June 30, 2001; and,
8. Copies of the applicant's income tax documents for the 2003 tax year.

On January 11, 2006, 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 did not respond to the director's request for evidence.

The director determined that the applicant had failed to submit sufficient evidence to establish her eligibility for TPS and denied the application on May 10, 2006.

On appeal, the applicant states that she has been present in the United States since March 27, 2001, and requests an opportunity to work in the country legally in order to support her son.

The applicant has not submitted sufficient evidence to establish her qualifying residence or physical presence in the United States during the requisite time periods. The applicant, by her own admission, admits to illegally entering into the United States on March 27, 2001. Although [REDACTED] states that the applicant has been present in the United States since January of 2001 (see number 1 above), the record of proceeding shows that US Border Patrol officials apprehended the applicant on March 27, 2001, as she was attempting to illegally enter the United States.

The assistant property manager of [REDACTED] states that the applicant has been at tenant in Virginia from April 8, 2000 to June 30, 2001 (See number 7 above); however, this information directly conflicts with the official Immigration records that show that border patrol officers apprehended the applicant on March 27, 2001, after illegally entering the country. 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 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 inconsistencies.

All other evidence submitted by the applicant is dated subsequent to the requisite time periods and are not sufficient to establish the applicant's residence and physical presence. The applicant has failed to establish that she has met the continuous residence and continuous physical presence criteria described in 8 C.F.R. §§ 244.2(b) and (c). Consequently, the director's decision to withdraw the approval of the TPS application will be affirmed.

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.