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U.S. Citizenship
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DEC 03 2007

FILE: [REDACTED]
[EAC 02 241 51222]

Office: VERMONT SERVICE CENTER

Date:

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.

John H. Vaughan
for

Robert P. Wiemann, Chief
Administrative Appeals Office

CC: [REDACTED]

DISCUSSION: The application was denied by the Director, Vermont Service Center (VSC). The director subsequently reopened the matter on motion and affirmed her decision to deny the application. The case is now on appeal before the Administrative Appeals Office (AAO). The appeal will be dismissed.

The applicant is 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 applicant filed her initial Form I-821, Application for Temporary Protected Status, on June 5, 2002. The director denied the application due to abandonment on June 6, 2003, because the applicant failed to respond to a request for evidence, dated November 12, 2002, that she had an established residence in the United States as of February 13, 2001. The director informed the applicant that there is no appeal from a denial due to abandonment, but that she could file a motion to reopen the case within 33 days of the date of issuance of the decision.

On July 9, 2003, the applicant filed a motion to reopen the case (EAC 03 209 54028 relates) and submitted an English translation of her birth certificate as well as letters from her sister and her pastor.

On February 25, 2004, the director granted the motion to reopen, but determined that the applicant failed to establish her continuous residence in the United States for the requisite time period, and affirmed the previous denial of the application. The applicant appealed that decision on March 25, 2004.

On appeal, the applicant submits a letter and additional documentation.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an applicant is eligible for TPS 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.

El Salvadoran nationals applying for TPS 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 have been granted, with the latest granted March 9, 2009, upon the applicant's re-registration during the requisite time period.

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).

A review of the record reveals that the applicant has submitted sufficient evidence to establish her nationality and identity. She has also submitted the following documentation in an attempt to establish her claim to qualifying continuous residence and continuous physical presence:

1. Letters, dated July 6, 2003 and March 16, 2004, from the pastor of St. Rose Rectory, Chelsea, Massachusetts, stating that the applicant is known to the community where she is a parishioner;
2. A letter, dated July 7, 2003, from the applicant's sister, [REDACTED], stating that the applicant had been residing with her at [REDACTED], Revere, Massachusetts, since December 4, 2000;

3. A letter, dated March 22, 200 [sic], from the East Boston Neighborhood Center, indicating that the applicant had been a patient since August 20, 2003; and,
4. A 2004 IRS Form W-2, Wage and Tax Statement.

The applicant claims to have lived continuously in the United States since December 2000. It is reasonable to expect that she would have a variety of credible, contemporaneous evidence to support this claim. A letter from her sister (No. 2, above) is not, by itself, persuasive evidence of continuous residence and continuous physical presence. The church letter (No. 1) has little evidentiary weight or probative value as it does not provide the specific date that the applicant was officially registered as a parishioner at the church. Furthermore, the remaining documentation (Nos. 3 and 4) merely establishes the applicant's presence in the United States on or after August 20, 2003.

The applicant has failed to submit sufficient evidence to establish her continuous residence in the United States since February 13, 2001, as required for El Salvadoran nationals under 8 C.F.R. § 244.2(c). Therefore, the director's decision to deny the application on this ground will be affirmed.

Beyond the decision of the director, the applicant has failed to establish her continuous physical presence in the United States since March 9, 2001, as required for El Salvadoran nationals under 8 C.F.R. § 244.2(b). Therefore, the application must also be denied on this ground.

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.