



U.S. Citizenship  
and Immigration  
Services

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M

[REDACTED]

FILE:

[REDACTED]  
[EAC 02 187 51418]

Office: VERMONT SERVICE CENTER

Date: MAY 31 2007

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.

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 failed to establish that she had continuously resided in the United States since February 13, 2001; and had been continuously physically present in the United States since March 9, 2001.

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).

On July 1, 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 failed to 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 October 1, 2003.

The applicant appealed the director's decision on October 30, 2003. The AAO remanded the case to the Vermont Service Center on November 28, 2005, for a new decision that specifically states the reasons for his denial. The director issued a denial on May 8, 2006, after determining that the applicant had failed to submit evidence to establish her continuous residence and continuous physical presence in the United States during the requisite time periods.

On appeal, the applicant reasserts her claim of eligibility for TPS. The applicant submitted the following documentation:

1. A letter from the Pastor of the [REDACTED] in which he stated that the applicant claims membership in the parish since January of 2001;
2. A Certificate of Baptism certifying the applicant's child's baptism in E. Boston, Massachusetts, on December 28, 2005;
3. A copy of the applicant's marriage certificate issued in Massachusetts on April 3, 2002;
4. Copies of pay statements from [REDACTED] dated January and February of 2001 and bearing the applicant's name as employee;
5. A letter dated October 19, 2003 from Reverend [REDACTED] of [REDACTED] in which he stated that he has known the applicant for about two years;
6. A bank statement from [REDACTED] dated October 3, 2002, and bearing the applicant's name as c
7. Copies of [REDACTED] money transfer receipt dated October 18, 2001 and December 13, 2001, and bearing the applicant's name as sender;
8. An affidavit from [REDACTED] in which he stated that he has known the applicant in the United States since January 5, 2001 and they are friends;
9. An affidavit from [REDACTED] in which she stated that she has known the applicant since January 11, 2001;
10. A copy of the applicant's El Salvadoran passport issued to her in Boston on March 12, 2002;
11. A letter dated November 12, 2001, from the Pastor of the [REDACTED] in which he stated that the applicant has been a member of the parish for more than one year;
12. An affidavit from [REDACTED] in which she stated that she has known the applicant but, does not specify the length of time of her acquaintance;
13. An affidavit from [REDACTED] in which she stated that she has known the applicant since January of 2001; and,
14. An affidavit from [REDACTED] in which she stated that she has known the applicant since January of 2001.

The applicant has not submitted sufficient evidence to establish her qualifying continuous residence and continuous physical presence in the United States during the requisite time periods. The affidavits from the churches in numbers 1, 5, and 11 above have little evidentiary weight or probative value as they do not provide basic information that is expressly required by 8 C.F.R. § 244.9(a)(2)(v). Specifically, the pastors do not explain the origin of the information to which they attest, nor do they provide the address where the applicant resided during the period of her involvement with the church. There has been no corroborative evidence submitted to support the statements made by the affiants in numbers 8, 9, 12, 13, and 14 above. The applicant claims that she has been in the United States since January of 2001. It is therefore reasonable to expect that she would have some type of contemporaneous evidence to support these assertions; however, no such evidence has been provided. Without corroborative evidence, the affidavits from acquaintances do not substantiate clear and convincing evidence of the applicant's residence and physical presence in the United States during the requisite time periods.

There has been no evidence submitted to support the pay statements (see number 4 above) submitted by the applicant. All other evidence submitted by the applicant is dated subsequent to the requisite time periods.

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 deny the application for TPS 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. The application will be denied for the above reasons, with each considered as an independent and alternative basis for denial.

**ORDER:** The appeal is dismissed.