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

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SEP 20 2007

FILE:



Office: VERMONT SERVICE CENTER

Date:

[EAC 02 199 52082]

IN RE:

Applicant:



APPLICATION:

Application for Temporary Protected Status under Section 244 of the Immigration
and Nationality Act (the 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 Director, Vermont Service Center (VSC) denied, re-opened, and again denied the application. The application is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant claims to be a citizen of El Salvador who seeks 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: 1) continuously resided in the United States since February 13, 2001; and, 2) been continuously physically present in the United States since March 9, 2001.

On appeal, the applicant reasserts her claim to TPS eligibility.

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 Salvadorans must demonstrate continuous residence in the United States since February 13, 2001, and continuous physical presence since March 9, 2001.

The initial registration period for Salvadorans was from March 9, 2001, through September 9, 2002. Subsequent extensions of the TPS designation have been granted, with the latest extension valid until 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 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 reflects that the applicant filed her initial application on May 22, 2002. In support of her application, the applicant submitted two notarized letters and three date-stamped envelopes. The applicant did not respond to the director's December 2, 2003, request that she submit further evidence to establish her qualifying continuous physical presence in the United States.

On March 26, 2004, the director denied the application. On April 26, 2004, the applicant filed an appeal from the director's decision with the AAO. On November 3, 2005, the AAO remanded the decision to the director for entry of a new decision setting forth the specific reasons for the denial. On December 12, 2005, the director denied the application on the basis that the applicant had failed to establish her qualifying continuous residence and continuous physical presence in the United States.

On appeal, the applicant reasserts that she is eligible for TPS but submits no new evidence. The documentation submitted by the applicant fails to establish her qualifying continuous residence and continuous physical presence.

The notarized letters submitted by the applicant can be given little weight and are of little probative value as they do not provide the affiants' addresses, dates and places of birth, relationship to the applicant, or full information and/or complete details relating to the applicant's continuous residence and continuous physical presence, as required by 8 C.F.R. § 244.9(a)(2)(vi).

The date-stamped envelopes submitted by the applicant are not sufficient to meet her burden of proof. The applicant claims to have lived in the United States since June 20, 2000. It is reasonable to expect that she would have a variety of contemporaneous evidence to support these envelopes; however, no such evidence has been provided. The applicant has not submitted sufficient credible evidence to establish her qualifying

continuous residence and continuous physical presence in the United States. She has, therefore, failed to establish that he has met the criteria described in 8 C.F.R. § 244.2(b) and (c). Consequently, the director's decision to deny the application on these grounds will be affirmed.

Beyond the decision of the director, the applicant has not submitted sufficient documentation to establish her nationality and identity as required in 8 C.F.R. § 244.9(a)(11). The applicant submitted a birth certificate, but no photo identification to go along with it. The applicant offers no explanation why she did not submit photo identification. The application must also be denied for this additional reason.

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 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 that burden.

ORDER: The appeal is dismissed.