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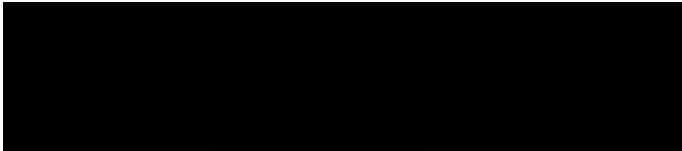
U.S. Department of Homeland Security
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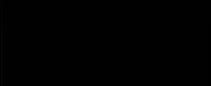
U.S. Citizenship
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Services

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FILE:



Office: VERMONT SERVICE CENTER
Consolidated therein]
[WAC 02 126 53204]

Date: DEC 22 2008

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 Vermont Service Center. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider, as required by 8 C.F.R. 103.5(a)(1)(i).

A handwritten signature in black ink, appearing to read "John F. Grissom".

John F. Grissom, Acting 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 claims to be 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 determined that 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. The director also determined that the applicant failed to establish her identity and nationality. The director, therefore, denied the application.

On appeal, the applicant asserts that she provided the requested documentation and asks that her case be reconsidered. The applicant also submits evidence in an attempt to establish her qualifying continuous residence and continuous physical presence in the United States.

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 as designated by the Attorney General is eligible for temporary protected status 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 section 244.3;
- (e) Is not ineligible under 8 C.F.R. § 244.4; and
- (f)
 - (1) Registers for TPS 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 term *continuously physically present*, as used 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 term *continuously resided*, as used 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 that they have continuously resided in the United States since February 13, 2001, and that they have been continuously physically present 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 extension granted until March 9, 2009, upon the applicant's re-registration during the requisite 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 United States Citizenship and Immigration Services (USCIS). 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 shows that the applicant filed her TPS application on February 27, 2002. On February 25, 2008, the applicant was provided the opportunity to submit evidence establishing continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States from March 9, 2001, to the filing date of the application. The applicant was also requested to submit evidence establishing her nationality and identity. The applicant failed to respond.

The director determined that the applicant failed to submit sufficient evidence to establish her continuous residence and continuous physical presence in the United States during the qualifying period. Therefore, the director denied the application.

On appeal, the applicant states that she provided the requested evidence and asks that her case be reconsidered. There is nothing in the record to indicate that the applicant did respond to the request for evidence. In addition, the applicant submits evidence in an attempt to establish her qualifying continuous residence and continuous physical presence in the United States. Specifically, the applicant submits:

1. A copy of a Salvadoran birth certificate for [REDACTED] with English translation.

2. Copies of checks payable to USCIS dated September 9, 2007.
3. Copies of the applicant's Social Security Cards, her 1997, 1998, 1999, 2002, 2004 and 2005 employment authorization cards, and, Form I-787C, Receipt Notices dated February 13, 2002, March 1, 1996, and February 22, 1996.
4. Copies of an AT&T Broadband bill dated December 25, 2001; pay stubs dated August 4, 2001 and December 22, 2001; Bank of America Savings Statements dated October 1 through October 3, 2001; and November 1 through November 30, 2001; her 2001 tax documents; and a copy of a State of California birth certificate for her daughter born on April 26, 1999.
5. A copy of the applicant's Form I-589, Application for Asylum and for Withholding of Deportation, and a Bank of America check dated November 18, 1997.
6. A copy of an earnings statement from West Valley Engineering, Incorporated dated November 19, 2000.

The 1997, 1998 and 1999 employment authorization cards indicate the applicant was present in the United States prior to the qualifying dates to establish continuous residence and continuous physical presence in the United States. Of the remaining evidence presented, one of the pay stubs is dated August 4, 2001, and is the earliest date presented as evidence of the applicant's presence in the United States during the requisite period. Therefore, the evidence does not establish the applicant's continuous residence in the United States since February 13, 2001, and her continuous physical presence in the United States from March 9, 2001 to the filing date of her TPS application.

The applicant has not submitted sufficient evidence to establish that she has met the criteria for continuous residence and continuous physical presence described in 8 C.F.R. § 244.2(b) and (c). Consequently, the director's decision to deny the application for temporary protected status will be affirmed.

It is also noted that, as discussed by the director, the applicant has provided two different names and submitted two different birth certificates with English translations. The applicant has failed to address these birth certificates or the use of two different names. This discrepancy has not been satisfactorily explained. 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, in fact, lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988). Furthermore, although the applicant has submitted two birth certificates with English translations, neither was accompanied by photo identification. The applicant has also failed to provide a passport or any national identity document from the alien's country of origin bearing photo and/or fingerprint to establish her nationality and identity. Therefore, the applicant has not established her nationality or her identity.

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.