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U.S. Department of Homeland Security
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Washington, DC 20536

U.S. Citizenship and Immigration Services

[redacted]

FILE: [redacted] Office: NEBRASKA SERVICE CENTER Date: APR 07 2004

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, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Nebraska Service Center. The matter 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. 1254a.

The director denied the application after determining that the applicant had failed to provide conclusive evidence that she had met the requirements of the registration period for date of entry prior to February 13, 2001, continuous residence in the United States since February 13, 2001, and physical presence in the United States since March 9, 2001.

On appeal, the applicant states that she needs to obtain authorization to work in the United States. She asserts that she is eligible for TPS because she has completed all of the necessary requirements. The applicant submits evidence of residence in the United States. The applicant also indicated that she would be submitting additional evidence within 30 days from April 18, 2003. To date, however, no additional evidence has been received; therefore, the record will be considered complete.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an alien who is a national of a foreign state 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.

(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 condition described in paragraph (f)(2) of this section.

Continuously physically present 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.

Continuously resided 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 entry on or prior to February 13, 2001; 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. A subsequent extension of the TPS designation has been granted by the Secretary of the Department of Homeland Security, with validity until March 9, 2005, 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 the director. 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 January 18, 2003, the applicant was requested to submit: (1) a photo identification document; (2) a copy of her birth certificate; (3) evidence to show date of entry prior to February 13, 2001; (4) evidence to show continuous residence in the United States since February 13, 2001; and (5) evidence to show continuous physical presence in the United States since March 9, 2001. In response, the applicant submitted her birth certificate, a copy of her passport, and an affidavit from who stated that he has known the applicant since January 2001. The director determined that the applicant had failed to establish that she had met the date of entry, continuous residence, and physical presence criteria for TPS and denied the application.

On appeal, the applicant asserts that she has completed all of the requirements and is eligible for TPS. She submits the following evidence:

(1) two receipts, dated December 2, 2000 and January 1, 2001, for rental of property at city and state not shown on the receipt;

(2) an affidavit from who states that he has personal knowledge that the applicant resided in Sioux Falls from December 2000 through April 8, 2003;

(3) an affidavit from who states that he has personal knowledge that the applicant resided in Sioux Falls from December 6, 2002 through April 13, 2003;

(4) an affidavit from who states that he has personal knowledge that the applicant resided in Sioux Falls from December 25, 2000 to April 16, 2003; and

(5) an affidavit from who states that he has personal knowledge that the applicant resided in Sioux Falls from January 2002 through April 16, 2003.

The applicant stated on the Form I-821 application that she entered the United States on December 1, 2000. Therefore, the affidavit from attesting to knowledge of the applicant's residence in Sioux Falls starting in January 2000, is not credible. 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).

In addition, the affiants do not state the address where the applicant resided nor indicate how often they saw the applicant during the period they have known her. These affidavits are of little probative value as they do not present clear evidence to establish that the applicant has continuously resided in the United States since February 13, 2001 and has been physically present in the United States since March 9, 2001.

The applicant has not submitted sufficient evidence to establish that she has met the criteria 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.

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.