



U.S. Citizenship
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Services

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M/

FILE: [REDACTED]
[EAC 02 278 53629]

Office: Vermont Service Center

Date: **MAR 05 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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

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 claims to be 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 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 submits evidence in support of her eligibility and requests that her materials be reviewed and her application for temporary protection status be approved in order to continue supporting two children born 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 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. 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 May 27, 2003, the applicant was requested to submit evidence establishing her continuous residence since February 13, 2001, and continuous physical presence since March 9, 2001. The applicant did not initially respond, and evidence in the record indicates that at some point between filing and the subsequent decision rendered by the director on January 13, 2004, the applicant's address changed twice.

The director initially denied the application based on the applicant's failure to respond to the request for evidence, but this decision was subsequently remanded to the director by the AAO due to the director's failure to state a specific reason for denial. On October 6, 2005, the director denied the application because the applicant had 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 that she is eligible for Temporary Protected Status. The applicant has submitted the following documentation:

1. Letter, dated October 26, 2005, signed by [REDACTED] who is married to the applicant. The letter states that he met the applicant in November of 2000, that they married in August 28, 2002, and that the applicant's income is necessary to support their son.
2. Letter, dated October 26, 2005, signed by the applicant, explaining that she was married in August of 2002, and had a son in 2004.
3. Copy of the applicant's passport from El Salvador.
4. Copy of the applicant's marriage certificate from Arlington County, Virginia, dated August 28, 2002.
5. Copy of a medical log from [REDACTED] for the applicant, and bearing periodic entries dated August 14, 2001, July 27, 2001 (no show), and May 30th, 2001.
6. Copy of a medical exam report for the applicant titled Annual Well-Woman Exam, dated November 27, 2001.
7. Copy of a medical document listing the applicant's name and dated September 22, 2003.
8. Copy of a medical report for the applicant ordered by [REDACTED], M.D., and dated September 30, 2005.
9. Copy of the applicant's birth certificate and a translation of that document listing the applicant's birth date as January 23, 1973, in San Alejo, La Union, El Salvador.
10. Five copies of documents generically labeled "Receipt" listing the name of the applicant's husband and allegedly given for payment of rent for the dates of January 1, 2001, February 1, 2001, March 1, 2001, April 1, 2001, May 1, 2001.

The record also contains other documents submitted by the applicant such as copies of driver's licenses, tax documentation, pay stubs, bank records and the applicant's social security card, all bearing dates for 2002, 2003 and 2004.

When viewed in the best light, the evidence submitted by the applicant would generally tend to corroborate her assertions for continuous presence from the date of May 30, 2001, until the present. However, the documentation submitted to establish presence before May 30, 2001, is not persuasive.

The copies of generic money order receipts provided by the applicant are not supported by any other corroborative evidence and are too generic in nature to be solely determinative of an applicant's presence. While 8 C.F.R. § 244.9(a)(2)(vi) specifically states that additional documents such as money order receipts "may" be accepted in support of the applicant's claim, the regulations do not suggest that such evidence alone is necessarily sufficient to establish the applicant's qualifying residence or physical presence in the United

States. The applicant claims to have lived in the United States since 1999. It is reasonable to expect that the applicant would have some other type of contemporaneous evidence to support these receipts; however, no such evidence has been provided. The generic receipts submitted by the applicant are suspicious in nature due to their vulnerability to fraud, and fail to persuasively establish that they were actually given for payment of rent. In addition, these "receipts" bear the name of the applicant's husband at a date before they were allegedly married and are thus not probative of her presence during the time listed.

The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. 8 C.F.R. § 244.9(b). In this case the evidence submitted can not be considered extensive, and is only marginally probative of her presence and residence during the required periods. It is determined that the documentation submitted by the applicant is not sufficient to establish that she satisfies the residence and physical presence requirements described in 8 C.F.R. §§ 244.2(b) and (c).

The applicant has not submitted sufficiently probative evidence to establish her qualifying continuous residence or continuous physical presence in the United States during the period from before February 13, 2001, to May 30, 2001. She has, thereby, failed 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 TPS will be affirmed.

On November 28, 2003, the applicant was arrested and charged with THEFT II, by the Washington, DC Police Department. It appears from the FBI printout that the applicant was convicted of this offense on March 2, 2004; however, the actual court disposition for this offense was not provided by the applicant. This offense must be addressed in any further immigration proceedings.

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. In this case the applicant has not provided sufficiently probative documentation to establish her presence during the requisite periods.

ORDER: The appeal is dismissed.