



U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
[EAC 02 183 51990]

Office: VERMONT SERVICE CENTER

Date: **MAR 09 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 continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States since March 9, 2001.

On appeal, the applicant submits additional evidence.

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 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 § 244.3;
- (e) Is not ineligible under § 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 parole; 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 conditions described in paragraph (f)(2) of this section.

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. 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 valid until September 9, 2006, upon the applicant's re-registration during the requisite time period.

The initial registration period for Salvadorans was from March 9, 2001, through September 9, 2002. The record reveals that the applicant filed his initial application with the Immigration and Naturalization Service, now Citizenship and Immigration Services (CIS), on April 27, 2002.

The burden of proof is upon the applicant to establish that 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 her burden of proof the applicant must provide supporting documentary evidence of eligibility apart from her own statements. 8 C.F.R. § 244.9(b).

The applicant indicated on her Form I-821, Application for Temporary Protected Status, that she entered the United States without inspection in November 2000. In support of her application, the applicant submitted the following:

1. photocopies of generic rent receipts for the period from November 2000 through April 2000;
and,

2. an affidavit dated April 12, 2002, from [REDACTED] stating that she had known the applicant for 17 months.

On August 18, 2004, the applicant was requested to submit evidence establishing her qualifying continuous residence and continuous physical presence in the United States during the requisite periods. The applicant, in response, submitted the following:

3. an affidavit dated September 6, 2004, from [REDACTED] stating that he has known the applicant since June 2001;
4. a letter dated September 12, 2004, from [REDACTED] of Pentecostal Church of God International Movement in Somerville, Massachusetts, stating that he has known the applicant since September 2002;
5. an affidavit dated September 9, 2004, from [REDACTED], who identifies himself as the applicant's landlord, stating that the applicant rented an apartment located at [REDACTED] East Boston, Massachusetts, from June 2001 until August 2001;
6. an affidavit dated September 3, 2004, from [REDACTED] stating that the applicant was living in her residence located at [REDACTED] East Boston, Massachusetts, from September 1, 2001 to September 1, 2002;
7. an affidavit dated September 8, 2004, from [REDACTED] stating that the applicant worked for him in his restaurant, [REDACTED] located at [REDACTED] East Boston, Massachusetts, from June 2001 to August 2001;
8. a photocopy of the applicant's 2003 Internal Revenue Service (IRS) Form 1040EZ, Income Tax Return For Single and Joint Filers With No Dependents, and photocopies of her IRS Forms W-2, Wage and Tax Statement, from K & J Landscaping in Revere, Massachusetts, and from ABR Holdings in Boston, Massachusetts; and,
9. a photocopy of a money transfer receipt dated February 6, 2004.

The director determined that the applicant had failed to submit sufficient evidence to establish his continuous residence and continuous physical presence in the United States during the requisite periods and denied the application on October 20, 2004.

On appeal, the applicant submits the following:

10. an affidavit from [REDACTED] stating that the applicant worked at his restaurant, Taqueria Cancun, from June 2001 to August 2001;

11. a letter dated September 12, 2004, from [REDACTED] repeating his statement that he has known the applicant since September 2002;
12. an affidavit dated September 6, 2004, from [REDACTED] stating that he has known the applicant since June 2001;
13. an affidavit dated September 3, 2004, from [REDACTED] stating that the applicant lived with her from September 1, 2001 to September 1, 2002;
14. an affidavit dated September 9, 2004, from [REDACTED], the applicant's landlord, stating that the applicant was his tenant from June 2001 to August 2001; and,
15. a letter dated November 13, 2004, from [REDACTED] stating that the applicant baby-sat her daughter [REDACTED] from November 2000 through May 2001, along with a photocopy of a Rhode Island birth certificate for [REDACTED]

The generic rent receipts (No. 1 above) are dated prior to the requisite periods to establish continuous residence and continuous physical presence in the United States. Without corroborative evidence, the affidavits from friends and acquaintances (Nos. 2, 3, 4, 5, 6, 11, 12, 13, 14, and 15 above) are not sufficient to establish the applicant's qualifying continuous residence and continuous physical presence. Moreover, affidavits are only specifically listed as acceptable evidence of employment and membership in organizations such as churches or labor unions as described at 8 C.F.R. § 244.9(a)(2)(i) and (v).

The employment affidavits from [REDACTED] (Nos. 7 and 10 above) and the employment letter (No. 15 above) and affidavit (No. 2 above) from [REDACTED] (No. 15 above) have little evidentiary weight or probative value as the neither [REDACTED] nor [REDACTED] provides basic information that is expressly required by 8 C.F.R. § 244.9(a)(2)(i). Specifically, [REDACTED] does not provide any information regarding the applicant's duties at his restaurant or the address where the applicant resided during the period of her employment. [REDACTED] does not provide the address where the applicant resided during the period of her employment.

The applicant's 2003 federal income tax return and IRS Forms W-2 (No. 8 above) are not sufficient to establish the applicant's qualifying continuous residence and continuous physical presence in the United States during the requisite periods because they do not reflect the applicant's exact dates of employment during that year.

The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. 8 C.F.R. § 244.9(b). 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). Consequently, the director's decision to deny the application for temporary protected status will be affirmed.

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.