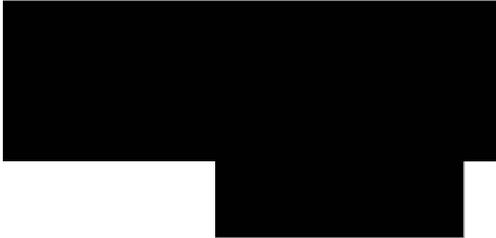


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**U.S. Citizenship
and Immigration
Services**

PUBLIC copy



Office: NEBRASKA SERVICE CENTER

Date: APR 28 2008

[LIN 02 281 53640]

INRE: Applicant:

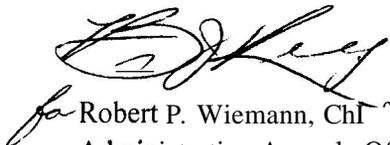


APPLICANON: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

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, Nebraska 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 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 provide a copy of her birth certificate or passport. The director, therefore, denied the application.

On appeal, the applicant states that the Notice of Intent to Deny (NOIO) was sent back to CIS before she could pick it up from the post office. The applicant also submits copies of her passport, her B-2 visa and some evidence of her residence and physical presence in the United States during the qualifying period.

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) (I) 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.P.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.P.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 initial registration period for El Salvadorans was from March 9, 2001 through September 9, 2002. The record shows that the applicant filed this TPS application on September 3, 2002. CIS records indicate the applicant filed her initial TPS application on August 3, 2001 under receipt LIN 01 241 51019. That application was denied on January 14, 2002 because the applicant failed to establish continuous residence and continuous physical presence in the United States during the qualifying period. There is nothing in the record to indicate that the applicant appealed the director's decision.

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.P.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.P.R. § 244.9(b).

The record shows that the applicant filed this TPS application on September 9, 2002. On January 13, 2003, 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 a copy of her birth certificate or passport. The applicant failed to respond to the notice.

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 and evidence of nationality. Therefore, the director denied the application.

On appeal, the applicant states that she did not receive the NOM because the notice left by the mailman got lost. According to the applicant, when she went to the post office, the notice had been returned to CIS. The applicant also submits evidence in an attempt to establish continuous residence and continuous physical presence in the United States during the qualifying period.

Specifically, the applicant submits:

- I. Copies of her Salvadoran passport, containing a B-2 Visa, and a birth certificate in Spanish with no English translation.
2. Copies of money order receipts dated July 30, 2001, August 29, 2002 and a money order receipt with an illegible date.
3. _____ of the Church of Jesus Christ of Latter-Day Saints, _____, Department of the Treasury Internal Revenue Service (IRS), TRR-Tax Resolution Representative, and Lance Anderson.
4. Copies of 2000 and 2002 tax documents.
5. Copies of a bill from U of U Hospitals & County Clinics dated July 26, 2002, a Final Notice from Utah Power dated December 10, 2002, and a list of coverage and applicable deductibles from Allstate Insurance for a premium period beginning on March 2, 2002.

The passport and the B-2 visa establish the applicant's nationality and identity, therefore, the applicant has overcome this portion of the denial. _____ states that the applicant has been a member of his ward since June 2000. However, this statement has little evidentiary weight or probative value as it does not provide basic information that is expressly required by 8 C.F.R. § 244.9(a)(2)(v). Specifically, the Bishop does not provide the address where the applicant resided during the period of her involvement with the church. _____ states that IRS records indicate the applicant was in the United States in 2000. However, _____ does not attest to the applicant's presence in the United States during the qualifying periods to establish continuous residence and continuous physical presence. In the same way, the 2000 tax documents indicate the applicant was present at some point during that year. _____ states that changes to the applicant's Allstate Insurance policy were made and took effect on October 10, 2002. The remaining evidence provided by the applicant is dated subsequent to the dates required to establish qualifying continuous residence and continuous physical presence in the United States and are therefore of little or no probative value.

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.

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.