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U.S. Citizenship
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Services

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FILE: [REDACTED]
[EAC 01 232 54808]

Office: VERMONT SERVICE CENTER

Date: AUG 01 2001

IN RE: Applicant:

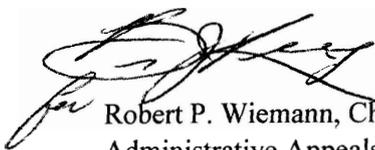


APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

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 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 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 that 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 states that she has met her requirements for TPS. The applicant submits additional documentary evidence in support of her claim.

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. The designation of TPS for El Salvadorans has been extended several times, with the latest extension valid until March 9, 2009, 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 March 31, 2003, the applicant was requested to submit evidence establishing her continuous residence since February 13, 2001, and continuous physical presence since March 19, 2001, in the United States as well as her date of entry into the United States. The applicant in response, provided the following documentation:

1. A copy of Western Union money transfer customer receipt, dated February 15, 2001, with the sender name of [REDACTED]
2. A Western Union money transfer customer receipt, dated March 1, 2001, with the sender name of [REDACTED]
3. A copy of letter from Sprint PSC, dated March 10, 2001 addressed to [REDACTED] at [REDACTED] New York.

The director determined that the applicant had failed to submit sufficient evidence to establish her eligibility for TPS and denied the application on July 9, 2003.

On appeal, the applicant reasserts that the evidence submitted is sufficient to establish her claim. The applicant submitted a statement in which she claims that she thought the director only requested evidence of employment or school records, rent or medical receipts and bank account or insurance documents. The applicant then submitted the following additional documentation:

1. Affidavit from [REDACTED] dated June 10, 2003, stating that she has known the applicant since [she] arrived in this country, and that she was aware of the applicant's arrival to the United States before February 13, 2001.
2. Affidavit from [REDACTED] dated June 10, 2003, stating that she has known the applicant since the applicant's arrival in the United States on February 10, 2001.
3. Affidavit from [REDACTED] dated June 8, 2003, stating that she had knowledge that the applicant came into the United States on February 10, 2001.

The affidavits of [REDACTED] have little evidentiary weight or probative value as they do not provide basic information that is expressly required by 8 C.F.R. § 244.9(a)(2)(v). Specifically, the affidavit of [REDACTED] does not contain specific information about the applicant's arrival in the United States, but merely claims that she was "aware of [the applicant's] arrival [in] the United States before February 13, 2001." [REDACTED] does not provide any details on when she became aware of the applicant's arrival, how she became aware of the information stated in her affidavit and from whom she acquired the information. Furthermore, [REDACTED] statement is not supported by any evidence that the applicant was living at [REDACTED] Uniondale, New York, when she first encountered the applicant. There is no information in the record that the applicant ever resided at the stated address. This inconsistency casts a serious doubt as to the credibility of [REDACTED] statement. The affidavits of [REDACTED] have similar problems in that the affidavits do not provide probative information as to when the applicant arrived in the United States, how they each became aware of the time the applicant arrived in the United States, the nature of their relationship with the applicant, the address where the applicant resided during the period they claimed to have known her, and that the applicant has continuously resided in the United States since her arrival in this country.

The applicant has not submitted sufficient evidence to establish her qualifying continuous residence or continuous physical presence in the United States during the period from March 9, 2001 to July 17, 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.

Beyond the decision of the director, the applicant has not submitted sufficient evidence to establish her nationality and identity. The applicant has furnished a copy of a birth certificate and English translation; however, she has not submitted a national identity document from her country bearing a photograph and or/fingerprint. The birth certificate alone is insufficient to establish the applicant's identity and nationality under the provision of 8 C.F.R. § 244.9(a)(1). Therefore, the application must also be denied for this reason.

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. The applicant has failed to meet this burden.

ORDER: The appeal is dismissed.