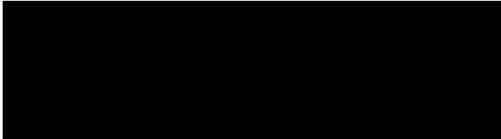


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invasion of personal privacy



U.S. Citizenship  
and Immigration  
Services

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FILE:



[WAC 01264 59641]

Office: California Service Center

Date: JAN 16 2008

INRE:

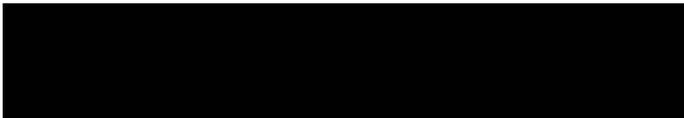
Applicant:



APPLICATION:

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

ON BEHALF OF APPLICANT:



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 "R. Wiemann".

for Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, California 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 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, counsel reasserts the applicant's claim of eligibility for TPS. Counsel further states that a brief and/or evidence would be submitted to the AAO within 30 days. To date, however, no additional documentation has been received. Therefore, the case will be considered complete.

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 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.
- (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 most recent 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).

In support of her initial application for TPS, the applicant provided the following evidence:

1. An affidavit from \_\_\_\_\_, pastor of Mission Evangelica Pentecostes Relevacion Divina in Rancho Santa Margarita, California, who stated that he had personal knowledge of the applicant's involvement with his church since December 12, 2000;
2. A photocopy of a hand-written \_\_\_\_\_ Bakery Order Request which indicates that the applicant wished to pick up a cake on January 1, 2001; and,
3. An affidavit from \_\_\_\_\_ who stated that he had personal knowledge of the applicant's residence in Rancho Margarita, California, since December 2000.

On March 8, 2003, the applicant was requested to submit evidence establishing her continuous residence since February 13, 2001, and continuous physical presence since March 9, 2001, in the United States and police clearance and court dispositions for any arrests she may have had. The applicant, in response, provided the following documentation:

4. A copy of the results of a records check from the Superior Court of California, County of Orange, dated March 28, 2003, indicating that no criminal record was located;
5. A copy of her 2001 Internal Revenue Service (IRS) Form 1099-MISC;
6. A copy of her 2001 IRS Form 1040 U.S. Individual Income Tax Return;
7. A copy of her 2002 IRS Form W-2;
8. A copy of her 2002 IRS Form 1040A;
9. Copies of hand-written receipts dated July 18, 2001, October 30, 2001, and May 21, 2002;
10. Copies of bank statements dated August 8, 2002, September 10, 2002, and February 10, 2003;
11. Copies of telephone bills dated November 2, 2002 and January 2, 2003; and,
12. Copies of two receipts from La Canasta dated December 10, 2002 and January 8, 2003.

The director determined that the applicant had failed to submit sufficient evidence of her **qualifying** continuous residence and continuous physical presence in the United States and denied the application on June 16, 2003.

On appeal, counsel asserts that the applicant has continuously resided in the United States since November 7, 2000.

The affidavit detailed in No. 1 above 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 pastor does not explain the origin of the information to which he attests, nor does he provide the address where the applicant resided during the period of his involvement with the church.

The hand-written receipt detailed in NO.2 above carries little probative value since all of the information on the form appears to have been provided by the applicant, herself, and there is no independent corroboration of this information. In addition, the IRS forms detailed in Nos. 5 and 6 above do not reveal the actual dates of the applicant's residence or presence in the United States during the year 2001 and will not serve to establish the applicant's eligibility for TPS. The remaining evidence is dated on or after July 18, 2001.

The applicant has not submitted sufficient evidence to establish her **qualifying** continuous residence or continuous physical presence in the United States during the period prior to July 18, 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.

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.