U.S. Department of Homeland Security
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U.S. Citizenship and Immigration Services

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FILE: [redacted] [EAC 02 288 51737] Office: VERMONT SERVICE CENTER Date: NOV 02 2005

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, Director
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.

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 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 has been granted, with the latest extension granted 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 to September 9, 2002. The record reveals that the applicant filed her Form I-821, Application for Temporary Protected Status, with the Immigration and Naturalization Service, now Citizenship and Immigration Services (CIS), on September 9, 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 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 the Form I-821 that she first entered the United States on January 15, 2001. In support of her application, the applicant submitted the following:

1. a money transfer receipt dated July 18, 1998; and,

2. an affidavit dated September 5, 2002, from [redacted] stating he has known the applicant since January 20, 2001.

On May 14, 2004, the applicant was requested to submit evidence establishing her qualifying continuous residence and continuous physical presence in the United States during the requisite time periods. The applicant, in response, provided the following:

3. a letter dated June 9, 2004, from Reverend [redacted] Pastor of the [redacted] in Hempstead, New York, stating that the applicant has attended mass at his church "every Sunday since the beginning of 2001 year;"

4. an affidavit dated June 9, 2004, from [redacted] stating that he has known the applicant since November 2000;

5. a rent verification affidavit dated June 8, 2004, from [signature illegible] stating that the applicant rented a room located at [redacted] Brentwood, New York, from November 2000 to October 2001;

6. a letter dated June 1, 2004, from [redacted] stating that she has known the applicant "since April 25, 2001;"

7. a letter dated June 8, 2004, from [redacted] stating she has known the applicant "since November 28 of 2000;"

8. a photocopy of a mailing envelope postmarked July 24, 2002, addressed to the applicant at [redacted] Santa Clarita, California;"

9. photocopies of mailing invoices from El Triunfo Express, location unspecified, indicating the applicant sent packages to El Salvador on January 20, 2001 and August 15, 2001;

10. a photocopy of a pharmacy cash receipt dated August 5, 2002;

11. a photocopy of a receipt from King/Drew Medical Center, Los Angeles, California, dated August 5, 2002; and,

12. photocopies of generic rent receipts dated: November 1, 2000; December 2, 2000; March 2, 2001; and, July 3, 2001.

The director determined that the applicant had failed to submit sufficient evidence to establish her continuous residence in the United States during the requisite period and denied the application on July 29 2004.

On appeal, the applicant submits the following:

13. an affidavit dated August 25, 2004, from [redacted] stating that he has known the applicant since January 2001;

14. a photocopy of a document in the Spanish language from the Los Angeles County Department of Health Services, Los Angeles, California, dated July 22, 2002;

15. an affidavit dated August 24, 2004, from stating that he has known the applicant since January 15, 2001, and that she has worked for him part-time since June 2002;

16. an affidavit dated August 24, 2004, from stating that he has known the applicant since February 2001; and,

17. an assortment of documents dated between September 25, 2002 and August 18, 2004.

The applicant indicated on her Form I-821 that she entered the United States on January 15, 2001. However, this statement is contradicted by the statements made in various affidavits and letters she has submitted in support of her application. Mr. (No. 4 above) states that he has known the applicant since November 2000. The rent verification affidavit (No. 5 above) indicates that the applicant rented a room in Brentwood, New York, from November 2000 to October 2001. Ms states in her letter (No. 7 above) that she has known the applicant since November 28, 2000. These individuals couldn't have known the applicant since November 2000 if, as she claims on the Form I-821, she didn't enter the United States until January 15, 2001. Finally, the applicant submitted two generic rent receipts (No. 12 above) dated November 1, 2000 and December 2, 2000, respectively. The applicant could have not paid rent for a room in Brentwood, New York, in November and December 2000 if she didn't arrive in the United States until January 15, 2001. The applicant has not provided any explanation for these discrepancies in her claimed date of arrival and residence in the United States.

Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. Further, it is incumbent on the applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582. (Comm. 1988).

The documents listed at No. 17 above are all dated after the requisite periods to establish continuous residence in the United States, and the money transfer receipt (No. 1 above) is dated prior to the requisite periods to establish continuous residence.

The letter from Reverend (No. 3 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 letter is not in affidavit format, and the pastor does not provide the specific dates of the applicant's membership in his church or the address where the applicant resided during the period of her involvement with the church.

The applicant has submitted evidence reflecting her residence in the United States on August 15, 2001 (No. 9 above), July 22, 2002 (No. 14 above), July 24, 2002 (No. 8 above), and August 5, 2002 (Nos. 10 and 11 above). However, she has submitted only affidavits (Nos. 2, 6, 13, 15, and 16 above) to establish her continuous residence in the United States from February 13, 2001 to August 15, 2001, from August 15, 2001 to August 5, 2002, and

from August 5, 2002 to September 9, 2002, the filing date of her TPS application. Without corroborative evidence, affidavits are not sufficient to establish an 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). In view of the foregoing, it is concluded that the applicant has not submitted sufficient credible evidence to establish her continuous residence in the United States throughout the qualifying period.

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 requirement described in 8 C.F.R. § 244.2(c). Consequently, the director's decision to deny the application for temporary protected status will be affirmed.

Beyond the decision of the director, it is noted that the applicant has also failed to submit sufficient credible evidence to establish her continuous physical presence in the United States from March 9, 2001 to September 9, 2002, the filing date of her TPS application, as described at 8 C.F.R. § 244.2(b). Therefore, the application also must be denied for this reason.

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.