



U.S. Citizenship
and Immigration
Services

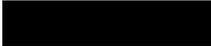
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FILE:



Office: VERMONT SERVICE CENTER

Date: NOV 03 2005

[EAC 03 257 53070]

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, 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, and continuous physical presence in the United States since March 9, 2001.

On appeal, the applicant submits a statement and 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 Citizenship and Immigration Services (CIS) on September 12, 2003. The applicant submitted evidence establishing that she qualifies for late initial registration as the spouse of a Salvadoran citizen who has been granted TPS.

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 her Form I-821 that she entered the United States without inspection on September 20, 1999. In support of her application, she submitted the following:

1. an affidavit from [REDACTED] stating that he has known the applicant "for about 2 years;"

2. an affidavit from [REDACTED] stating he has known the applicant "for about 2 years;"
3. a letter dated August 4, 2002, from [REDACTED] Pastor of [REDACTED]s Por Fe, A/D in Watertown, Massachusetts, stating that the applicant is an active member of his church;
4. an affidavit from Sebastiana [REDACTED] stating that she has known the applicant "for about 3 years;"
5. a photocopy of a mailing envelope postmarked August 1, 2002;
6. an affidavit from [REDACTED] stating that he has known the applicant "for about 2 years;" and,
7. a photocopy of her Massachusetts Identification Card.

On February 25, 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:

8. an affidavit from [REDACTED] stating he has known the applicant "since 2001;"
9. a letter from Reverend [REDACTED] Pastor of [REDACTED] Vive in Allston, Massachusetts, stating that the applicant is a member of his congregation, and that he has known her for "many years;"
10. a letter dated March 10, 2004, from [REDACTED] stating that she has known the applicant for 4 years; and,
11. a letter dated March 19, 2004, from [REDACTED] stating that he has known the applicant "for many years."

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

On appeal, the applicant states that she needs employment authorization so she can work and help support her family in El Salvador. She submits the following:

12. a letter dated August 14, 2004, from Reverend [REDACTED] of St Columbkille Parish in Brighton, Massachusetts, stating that the applicant came to the United States to join her husband, [REDACTED] in 2001;

13. an affidavit from [REDACTED] stating that she has known the applicant since 2001;
14. an affidavit from [REDACTED] stating that he has known the applicant since 2001;
15. an affidavit from [REDACTED] stating she has known the applicant since 2001;
16. an affidavit from [REDACTED] stating that he has known the applicant since 2001.

The letter from Pastor [REDACTED] (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 pastor does not provide the inclusive dates of the applicant's membership in his church, nor does he provide the address where the applicant resided during the period of her involvement with the church. Similarly, the affidavit from Pastor Quiles (No. 9 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 provide the inclusive dates of the applicant's membership in his church, nor does he provide the address where the applicant resided during the period of her involvement with the church.

The affidavits and letters submitted by the applicant (Nos. 1, 2, 4, 6, 8, 10, 11, 12, 13, 14, 15, and 16 above) are not sufficient to establish the applicant's qualifying continuous residence and continuous physical presence in the United States during the requisite periods. The applicant claims to have lived in the United States since September 20, 1999. It is reasonable to expect that she would have some type of contemporaneous documents to corroborate these letters and affidavits; however, insufficient evidence has been provided. The applicant has provided only one mailing envelope postmarked August 1, 2002, to corroborate these affidavits and letters. Without additional 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).

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.