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Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
[EAC 02 169 50285]

Office: VERMONT SERVICE CENTER

Date: NOV 26 2015

IN RE: Applicant: [REDACTED]

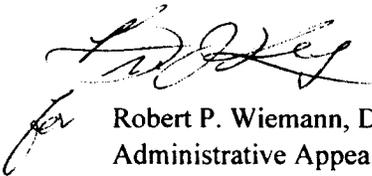
APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT:



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.


for 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 stated to be 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 been continuously physically present in the United States since March 9, 2001.

On appeal, counsel states:

Respondent never received the Service's request for additional information. The Service sent the request evidently to a Takoma Park Maryland address rather than the College Park Maryland address the Respondent resides at. Please reconsider the Service's denial of TPS benefits. She has produced an affidavit from her landlord attesting to her presence and residence in the United States for the relevant period of time.

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. An extension of the TPS designation has been granted with validity until September 9, 2006, 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).

Upon initial submission, the applicant forwarded the following documentation.

1. An affidavit from [REDACTED] dated April 15, 2002 who states that he has known the applicant since October 2000.
2. An affidavit dated April 15, 2002 from [REDACTED] residing at [REDACTED] Court, [REDACTED] in Alexandria, Virginia [REDACTED] who states that the applicant lives in his home in Alexandria, Virginia and pays \$250 per month to rent a room. He further states the applicant resided at his residence since September 2000 until the present.

On November 21, 2002, the applicant was requested to submit evidence establishing her residence from February 13, 2001, and physical presence since March 9, 2001, in the United States. The record reflects that the notice was mailed to the address the applicant provided with her initial TPS application, however, it was not returned

undelivered. On June 30, 2003, a new request to submit evidence establishing continuous residence and continuous physical presence was mailed to the applicant at [REDACTED] Takoma Park, Maryland [REDACTED] the address the applicant provided on a subsequent TPS application. The applicant, in response, provided the following documentation:

3. A letter dated July 22, 2003 from Pastor [REDACTED] of the [REDACTED] [REDACTED] 2:20 Church in Silver Spring, Maryland. He states that the applicant has been a member of the church since November, 2001.
4. A letter dated July 25, 2003 from [REDACTED] Plant Manager of [REDACTED] Services in Springfield, Virginia. [REDACTED] states the applicant began working for his firm on July 27, 2002.
5. A letter dated July 24, 2003 from [REDACTED] who states the applicant is an employee of USSI Cleaning Services and that she has been working for the company for the last 12 months.
6. An affidavit dated July 22, 2003 from [REDACTED] residing at [REDACTED] Place, Takoma Park, Maryland [REDACTED] who states that the applicant was living in his apartment when they were living in Virginia and when they moved to Maryland and that: "She has been sharing the rent with us since she came to this country on 11/14/01 to the present. She pays me \$200.00 a month for rent."

On appeal, counsel submits:

7. An affidavit dated August 16, 2004 from [REDACTED] residing at [REDACTED] College Park, Maryland [REDACTED] who states that the applicant resided in her basement apartment "well prior to" February 2001 and that she pays \$200 per month rent.

It is noted that affidavits from acquaintances or family members such as the affidavit provided by [REDACTED] at Item #1 are not, by themselves, persuasive evidence of residence or physical presence. Additionally, the employment letters from [REDACTED] at Item # 4 and from [REDACTED] at Item # 5 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)(i). Specifically, the letters are not in affidavit form and are not signed and attested to by the employers under the penalty of perjury. Additionally, neither employment letter provides the address where the applicant resided during the period of her employment.

The record contains an affidavit at Item # 2 from [REDACTED] who stated that the applicant resided at [REDACTED] Bradford Court, [REDACTED] in Alexandria, Virginia [REDACTED] from September 2000 until April 15, 2002. The record also contains an affidavit at Item #7 from [REDACTED] who stated that the applicant resided at [REDACTED] College Park, Maryland [REDACTED] from well prior to February 2001. These two statements are at variance. On her initial Form I-821, Application for Temporary Protected Status, and Form I-765, Application for Employment Authorization, both signed on April 15, 2002 and filed on April 18, 2002, she stated she entered

the United States on September 15, 2000, but on the I-821 and I-765, signed on September 7, 2002, she stated November 2000. Her third I-821 and I-765, signed on September 7, 2003 again stated September 15, 2000. 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. It is incumbent upon 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 (BIA 1988). The applicant has failed to submit any objective evidence to explain or justify the discrepant information. Therefore, the reliability of the remaining evidence offered by the applicant is suspect and it shall be concluded that the applicant has failed to provide reliable evidence upon which to base this TPS application.

Additionally, the applicant has not submitted sufficient evidence to establish her continuous residence or continuous physical presence in the United States from prior to February 13, 2001 to November 2001 when she began attending the [REDACTED] 2:20 Church. She has, thereby, failed to establish that he has met the criteria described in 8 C.F.R. §§ 244.2(b) and (c) (*supra*). Consequently, the director's decision to deny the application for TPS will be affirmed

Beyond the decision of the director, the applicant has provided insufficient evidence to establish that she is a national or citizen of El Salvador. She has provided a copy of her birth certificate along with an English translation. However, a birth certificate alone does not establish nationality. The record does not contain any photo identification such as a passport or national identity document. 8 C.F.R. § 244.2(a)(1). Therefore the application shall be denied for this additional 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 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.