



U.S. Citizenship
and Immigration
Services

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FILE:



OFFICE: VERMONT SERVICE CENTER

DATE: **05** 31 2005

[EAC 03 060 51690]

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 had failed to establish that she: (1) was eligible for late registration; (2) had continuously resided in the United States since February 13, 2001; and (3) had been continuously physically present from March 9, 2001, to the date of filing the application.

On appeal, the applicant submits a statement.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an alien who is a national of a foreign state designated by the Attorney General 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 8 C.F.R. § 244.4; and
- (f)
 - (1) Registers for TPS 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 condition described in paragraph (f)(2) of this section.

The term *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.

The term *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.

Persons applying for TPS offered to El Salvadorans must demonstrate that they have continuously resided in the United States since February 13, 2001, and that they have been continuously physically present 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. A subsequent extension of the TPS designation has been granted by the Department of Homeland Security, with validity until September 9, 2006, upon the applicant's re-registration during the requisite time period.

The initial registration period for El Salvadorans was from March 9, 2001, through September 9, 2002. The record shows that the applicant filed her initial application on September 11, 2002.

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).

The first issue in this proceeding is whether the applicant is eligible for late registration.

The record of proceeding confirms that the applicant filed her application after the initial registration period had closed. To qualify for late registration, the applicant must provide evidence that during the initial registration period from March 9, 2001 through September 9, 2002, she fell within the provisions described in 8 C.F.R. § 244.2(f)(2) (listed above).

In a notice of intent to deny dated June 21, 2004, the applicant was requested to submit evidence establishing her eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2). In response, the applicant furnished evidence in an attempt to establish continuous residence and continuous physical presence in the United States. However, no evidence was furnished to establish eligibility for late registration; therefore, the director denied the application on August 3, 2004.

On appeal, the applicant neither addressed nor submitted any evidence to establish that she has met any of the criteria for late registration described in 8 C.F.R. § 244.2(f)(2). Consequently, the director's decision to deny the application on this ground will be affirmed.

The second issue in this proceeding is whether the applicant has established her continuous residence in the United States since February 13, 2001, and continuous physical presence from March 9, 2001, to the date of filing the application.

The applicant claimed to have entered the United States on August 19, 2000. In support of her application, the applicant submitted:

1. A copy of her El Salvadoran birth certificate with English translation.
2. A copy of an envelope addressed to the applicant postmarked December 15, 2000.

In a notice of intent to deny dated June 21, 2004, the applicant was requested to submit additional evidence establishing her qualifying continuous residence and continuous physical presence in the United States. In response, the applicant submitted:

3. A letter from [REDACTED] Leasing Professional for Tysons View Apartments, indicating that the applicant has been a resident at Tysons View since August of 2000, and that she resides there with her husband.

The director noted that the statement from the apartment management (No. 3 above) was undated and it did not indicate how long the applicant had resided there. The director determined that the letter, without supporting documentary evidence, was insufficient to establish eligibility and denied the application on August 3, 2004.

On appeal, the applicant asserts that when she first came to the United States, she worked as a babysitter and she was provided housing and was paid in cash; therefore, she could not establish residency and a work history.

The statement made by the applicant, on appeal, that she was provided housing from her babysitting job is inconsistent with the letter from [REDACTED] (No. 3 above) in which she indicated that the applicant resided at Tysons View with her husband since August 2000. It is also noted that the applicant indicated on her application that she is not married.

The inconsistencies of the above statements raise questions of credibility. 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, in fact, lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988).

Regulations at 8 C.F.R. § 244.9(a)(2) do not expressly provide that personal affidavits on an applicant's behalf are sufficient to establish the applicant's qualifying continuous residence or continuous physical presence in the United States. Moreover, this one letter, provided by the applicant to establish her qualifying residence in the United States, was not supported by any other corroborative evidence, such as a lease agreement or rent receipts. The applicant claimed to have lived in the United States since August 2000. It is reasonable to expect that the applicant would have some other type of contemporaneous evidence to support her claim; however, no such evidence has been provided.

The evidence furnished by the applicant is insufficient to establish her qualifying continuous residence since February 13, 2001, and continuous physical presence from March 9, 2001, to the date of filing the application.

Although evidence furnished (No. 2 above) indicates that the applicant was present in the United States on December 15, 2000, the record contains no evidence of the applicant's continuous residence and continuous physical presence during the requisite period.

Accordingly, the applicant has failed to establish that she has met the criteria for continuous residence in the United States since February 13, 2001, and continuous physical presence since March 9, 2001, as described in 8 C.F.R. § 244.2(b) and (c). Consequently, the director's decision to deny the TPS application on this ground will also 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.