



U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
[EAC 02 219 51040]

Office: VERMONT SERVICE CENTER

Date: SEP 08 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:



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. The director subsequently dismissed a motion to reopen the case. The case is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant claims to be a 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 dismissed the motion because the applicant failed to establish that 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, the applicant submits a letter.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an applicant is eligible for TPS 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 have been granted, with the latest valid 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 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 filed her initial Form I-821, Application for Temporary Protected Status, on June 13, 2002. In support of her initial application, the applicant submitted a photocopy of an abstract of her El Salvadoran birth certificate, with English translation, and a letter from an acquaintance. She also submitted a letter, dated June 9, 2002, from [REDACTED] stating that he had rented a room to the applicant, at \$500 per month, since January 2001, and a letter, dated May 1, 2002, from [REDACTED] stating he had known the applicant since January 2002.

On August 20, 2003, the director requested the applicant to submit evidence in support of her application. The record reflects that the applicant failed to respond; therefore, the director denied the application on January 14, 2004. The director's decision did not state the specific reasons for denial of the application.

On February 18, 2004, the applicant filed an appeal of that decision. Because the appeal was not filed within the time allotted, the director accepted the appeal as a motion to reopen. In support of the motion, the applicant submitted the following documentation:

1. Photocopies of generic, hand-written rent receipts for the months of January, February, April, May, July, October, November, and December 2001; and February and April 2002;
2. A photocopy of a generic, hand-written receipt from "Avon," dated February 2001;
3. A letter, dated February 14, 2004, from [REDACTED] stating that he had employed the applicant from February 2001 to May 2002;
4. A letter, dated February 13, 2003, from Rev. Fernando E. Alvarado, pastor of the Evangelical Church "Faith & love" of the Assembly of God, Woodbridge, Virginia, stating that the applicant has been a member of the congregation since March 2001; and,
5. A photocopy of a marriage certificate, indicating that the applicant married [REDACTED] in Alexandria, Virginia, on June 7, 2002.

The director determined that the applicant had failed to establish that 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. Therefore, on April 21, 2004, the director dismissed the applicant's motion and reaffirmed his decision to deny the application. In his decision, the director noted that although the applicant's rent receipts showed payments of \$300 monthly, the letter from Mr. [REDACTED] stated that she paid \$500 monthly.

The applicant filed the instant appeal of that decision on May 7, 2004. In support of her appeal, the applicant submits a letter, dated April 27, 2004, stating that there must be an error somewhere, because she has never paid \$500 per month for rent.

The applicant claims to have lived in the United States from January 5, 2001, to the date of filing her TPS application on June 13, 2002. It is reasonable to assume that she would have a variety of credible, objective evidence to support this claim. However, the only such documentation provided is No. 5, above, which merely establishes the applicant's physical presence in the United States on June 7, 2002.

Letters from acquaintances are not, by themselves, persuasive evidence of qualifying continuous residence and continuous physical presence. The employment letter (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)(i). Specifically, it is not in the form of an affidavit and does not provide the address where the applicant resided during the period of her employment, the exact period(s) of employment, and the period(s) of layoff (if any). Similarly, the church letter (No. 4) has little evidentiary weight or probative value as it does not provide the specific date that the applicant was officially registered as a parishioner at his church.

There are discrepancies encountered in the evidence presented pertaining to No. 1, above. With her initial Form I-821, the applicant submitted a landlord letter stating that she paid \$500 per month in rent. However, the rent receipts indicate payments of \$300 per month. These discrepancies in the applicant's submissions have not been explained satisfactorily on appeal and call into question the applicant's ability to document the requirements

under the statute and regulations. Doubt cast on any aspect of the evidence as submitted 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; any 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).

It is concluded that the applicant has not submitted sufficient evidence to establish her qualifying continuous residence in the United States since February 13, 2001, or her continuous physical presence in the United States since March 9, 2001. Consequently, the director's decision to deny the application for temporary protected status will be affirmed.

Beyond the decision of the director, the applicant has not submitted an identity document bearing her photograph and/or fingerprint, as required under the provisions of 8 C.F.R. § 299.9(a)(1)(ii) and (iii). The application must also be denied for this reason.

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.