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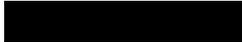
U.S. Citizenship
and Immigration
Services

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invasion of personal privacy**



FILE:



[EAC 02 275 51154]

Office: VERMONT SERVICE CENTER

Date: **JAN 06 2006**

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:



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.

A handwritten signature in black ink, appearing to read "R. Wiemann".

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 (AAO) 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 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 and additional documentation.

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 parole; 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. The initial registration period for El Salvadorans was from March 9, 2001, through September 9, 2002. 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 extension 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 August 29, 2002. In support of her application, the applicant submitted evidence of her nationality and identity, as well as the following documentation:

1. A photocopy of an affidavit, dated August 26, 2002, from [REDACTED] stating that the applicant had lived with her [REDACTED] since January 2000;
2. An affidavit, dated August 26, 2002, from [REDACTED] stating that she had known the applicant since December 1999; and,

3. A photocopy of a receipt, dated January 4, 2000, issued to her by Casa Manito Furniture, West New York, New Jersey.

The director determined that the applicant had failed to submit sufficient evidence to establish her qualifying continuous residence in the United States since February 13, 2001, and continuous physical presence since March 9, 2001. The director denied the application on July 19, 2004.

On appeal, the applicant resubmits documentation previously provided (Nos. 1 and 2, above, as well as a photocopy of her birth certificate, with English translation) and the original of No. 3, above. She also submits photocopies of her Employment Authorization Documents (EAD'S) and Social Security card, as well as the following additional documentation:

4. A photocopy of a Toyota lease statement, dated July 24, 2002;
5. A receipt, dated April 1, 2000, issued to her by Casa Manito Furniture, West New York, New Jersey;
6. A letter, dated August 20, 2004, from Our Lady Help of Christians church, West New York, New Jersey, stating that the applicant had been a parishioner since January 2000; and,
7. A photocopy of a New Jersey driver's license belonging to her fiancé, [REDACTED]

The applicant claims to have lived continuously in the United States since December 24, 1999. It is reasonable to expect that she would have a variety of credible, contemporaneous evidence to support this claim. Letters from acquaintances (Nos. 1 and 2, above) are not, by themselves, persuasive evidence of continuous residence and continuous physical presence. The church letter (No. 6) 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 the church. No. 7 does not relate to the applicant, and is, therefore, of no relevance. The remaining documentation merely reflects the applicant's presence in the United States on January 4, 2000 (No. 3), April 1, 2000 (No. 5), and on or about July 2002 (No. 4). The applicant has not submitted any evidence dated between April 2000 and July 2002.

Based on a review of the documentation submitted, it is concluded that the applicant has failed to establish her qualifying continuous residence since February 13, 2001, and continuous physical presence since March 9, 2001, to the date of filing her application on August 29, 2002. Consequently, the director's decision to deny the application for Temporary Protected Status on these grounds 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.