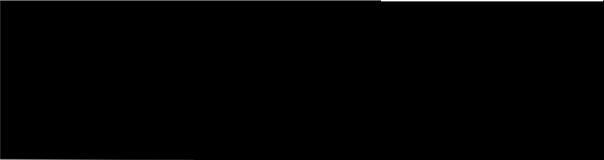




U.S. Citizenship
and Immigration
Services

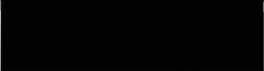
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FILE:



Office: VERMONT SERVICE CENTER

Date: JUN 27 2006

[EAC 01 183 51301]

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, Chief
Administrative Appeals Office

DISCUSSION: The application was denied, reopened, and denied again by the Director, Vermont Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The applicant claims 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 initially denied the application on May 28, 2002, because the applicant failed to appear to be fingerprinted or request that her fingerprint appointment be rescheduled.

On June 19, 2002, the applicant filed a motion to reopen the case. On motion, the applicant stated that she could not appear for her fingerprint appointment because the fingerprint office in New York, New York, was closed due to the Twin Towers disaster.

The director reopened the matter and provided the applicant with another opportunity to be fingerprinted. The applicant appeared for her fingerprint appointment as scheduled, and no criminal record was found.

On November 19, 2004, 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. Although a Form G-28, Notice of Entry of Appearance as Attorney or Representative, has been submitted, the individual named is not authorized under 8 C.F.R. § 292.1 or 292.2 to represent the applicant. Therefore, the applicant shall be considered as self-represented and the decision will be furnished only to the applicant.

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 have been granted, with the latest extension granted until September 9, 2007, upon the applicant's re-registration during the requisite time period.

The initial registration period for Salvadorans was from March 9, 2001, through September 9, 2002. The record reveals that the applicant filed her initial TPS application with the Immigration and Naturalization Service, now Citizenship and Immigration Services (CIS), on April 18, 2001.

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, Application for Temporary Protected Status, that she entered the United States without inspection in September 1997. In support of the application, the applicant submitted the following:

1. a photocopy of a birth certificate from the Town of Huntington, New York, indicating that [REDACTED] was born to the applicant on November 15, 1999;

On September 14, 2004, the applicant was requested to submit evidence establishing her qualifying continuous residence and continuous physical presence in the United States during the requisite periods. The applicant, in response, submitted the following:

2. a letter dated September 23, 2004, from [REDACTED] Assistant Controller for Carle Place Restaurant, Inc., [REDACTED], stating that the applicant had worked for her company as a laundry attendant since July 9, 2001;
3. a letter dated in October 2004 from [REDACTED] of the Family Service League, Huntington Station, New York, stating that the applicant had been a client at their center since December and had visited the center "a couple of times" in 2000, 2001, and 2003; and,
4. a letter from the Dolan Family Health Center, Inc., Huntington Hospital, Greenlawn, New York, stating that the applicant had been a patient at the center from April 8, 1999 to March 26, 2003.

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 November 19, 2004.

On appeal, the applicant states that she is submitting medical records to establish her qualifying continuous residence and continuous physical presence in the United States during the requisite periods. She submits the following:

5. a letter dated December 9, 2004, from [REDACTED] stating that the applicant had rented an apartment from him located at [REDACTED] February 1, 2001;
6. another letter from [REDACTED] stating that the applicant had been a patient from April 8, 1999 to March 26, 2003; and,

7. a letter dated December 2, 2004, from [REDACTED] stating that the applicant had been employed by [REDACTED] another division of [REDACTED] on May 25, 2001, as a laundry attendant, and was transferred to [REDACTED] on July 9, 2001.

The birth certificate (No. 1 above) predates the requisite periods to establish continuous residence and continuous physical presence in the United States. The employment letters from [REDACTED] (Nos. 2 and 7 above) have little evidentiary weight or probative value as [REDACTED] does 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 format, and [REDACTED] does not provide the address where the applicant resided during the period of her employment. Additionally, [REDACTED]'s statement in the letter dated December 2, 2004 (No. 7 above) that the applicant began working for her company on May 25, 2001, contradicts her previous statement in her letter dated September 23, 2004, that the applicant began working for her company on July 9, 2001. Neither [REDACTED] nor the applicant has provided any explanation for this contradiction. '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. Further, it is incumbent on 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. (Comm. 1988).

The letters from [REDACTED] (No. 3 above) and the letters from the Dolan Family Health Center (Nos. 4 and 6 above) are not sufficient to establish the applicant's qualifying continuous residence and continuous physical presence in the United States. [REDACTED] merely states that the applicant visited her facility "a few times" in 2000, 2001, and 2003. She does not provide any information regarding the specific dates that applicant came to her center. Similarly, the author of the letter from the Dolan Family Health Center does not provide the specific dates the applicant visited that center.

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.

Beyond the decision of the director, the applicant has not submitted an official Salvadoran photo identification document to establish her identity and nationality as described at 8 C.F.R. § 244.9(a)(1). Therefore, the application also must be denied for this 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 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.