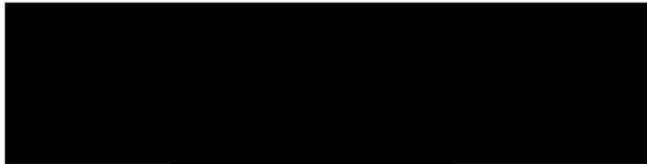


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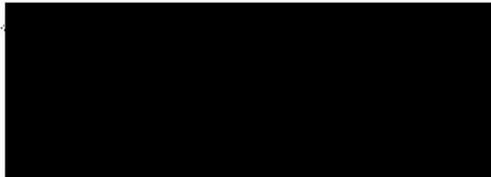
Applicant:



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.

for Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Nebraska 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 determined that the applicant failed to establish she had continuously resided in the United States since February 13, 2001. The director, therefore, denied the application.

On appeal, the applicant asserts that she has lived in the United States since 1996. The applicant also submits evidence in an attempt to establish continuous residence during the qualifying period.

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 as 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 section 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.

The term *continuously physically present*, as used 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 term *continuously resided*, as used 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 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. Subsequent extensions of the TPS designation have been granted, with the latest extension granted until September 9, 2006, upon the applicant's re-registration during the requisite 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).

The record shows that the applicant filed this TPS application on August 30, 2002. CIS records indicate the applicant submitted her initial TPS application, under CIS receipt number LIN 01 184 50023, on May 14, 2001. That application was denied as abandoned on November 28, 2001 because the applicant failed to respond to a request for evidence to establish her continuous residence and continuous physical presence in the United States during the qualifying period. On January 10, 2003, the applicant was provided the opportunity to submit evidence establishing her date of entry and continuous residence in the United States since February 13, 2001, and her continuous physical presence in the United States from March 9, 2001, to the filing date of the application. The applicant was also requested to submit a copy of her birth certificate or passport. The applicant, in response, provided a copy of her passport, a copy of her birth certificate with English translation, and a monthly statement from Ameritech dated February 26, through March 25, 2001.

The director determined that the applicant failed to submit sufficient evidence to establish her continuous residence during the qualifying period. Therefore, the director denied the application.

On appeal, the applicant states that she has lived in the United States since 1996. In addition, the applicant requests that her case be reviewed. The applicant also submits the following:

1. A copy of an earnings statement from Superior Panoramic Handprint, Inc, Chatsworth, California dated July 3, 1999.

2. Copies of pay stubs from Aven International, Inc. Ann Arbor, Michigan, dated June 16, 2000 and January 20, 2001, February 2, 2001, February 9, 2001, and a copy of a pay stub from an unidentified employer dated December 16, 1999.
3. A copy of a statement from [REDACTED]
4. Copies of a statement from [REDACTED] of Wendy's and an "Employee of the Month" certificate for January 2000.
5. Copies of a State of California Health Access Programs identification card issued on January 6, 1997.

The applicant also resubmits a copy of her passport and a State of Michigan identification card with an expiration date of August 10, 2007. In addition, the record contains a letter from Social Security Administration and a copy of a MSN Hotmail in Spanish with no English translation.

The personal information on the earnings statement is of a different type face than the rest of the document and lists the applicant's Social Security number as [REDACTED]. Similarly, the Aven International pay stubs also list the applicant's Social Security number as [REDACTED]. However, on applications provided by the applicant, she lists her Social Security number as [REDACTED]. These discrepancies have not been satisfactorily explained. 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).

Ms. Moran states that the applicant worked as a care provider for her father for several months. However, this statement 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, the affiant does not provide the address where the applicant resided during the period of her employment. It is further noted that the affiant did not indicate the dates of the applicant's employment.

The Wendy's documents and the Health Access Programs indicate the applicant was present in the United States prior to February 13, 2001. However, this evidence cannot establish the applicant's continuous residence from February 13, 2001 and continuous physical presence from March 9, 2001 to the filing date of the TPS application. It is noted that the Ameritech monthly statement establishes that the applicant was present in the United States from February 26, through March 25, 2001. However, this document, alone, cannot establish the applicant's continuous physical presence from March 9, 2001 to the filing date of the TPS application. Similarly, the Michigan identification card, which expires on August 10, 2007 and the letter from Social Security which indicates the applicant applied for a Social Security card on July 23, 2001 cannot establish the applicant's continuous residence during the qualifying period. Furthermore, the Hotmail was submitted without an English translation. Any document containing foreign language submitted to the CIS shall be accompanied by a full English language translation, which the translator has certified as complete and accurate, and by the translator's certification that he or she is competent to translate from the foreign language into English. 8 C.F.R. 103.2(b)(3). As the applicant failed to comply with the aforementioned, the statements cannot be considered in the rendering of this decision.

The applicant has not submitted sufficient evidence to establish that she has met the criteria for continuous residence described in 8 C.F.R. § 244.2 (c). Consequently, the director's decision to deny the application for temporary protected status will be affirmed.

Beyond the decision of the director, it is also noted that the applicant has provided insufficient evidence to establish her qualifying continuous physical presence during the requisite time periods. Therefore, the application must be denied on this reason as well.

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.