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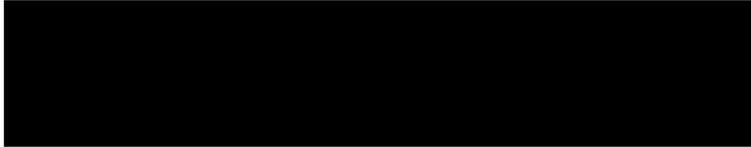
U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. A3042
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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FILE:



Office: NEBRASKA SERVICE CENTER

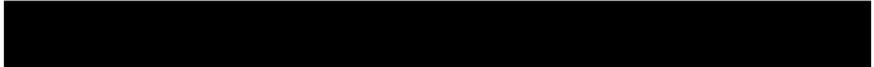
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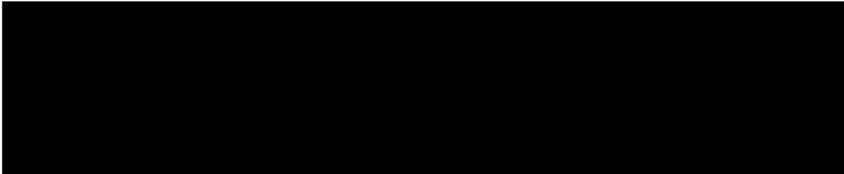
Applicant:



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.

Cindy N. Somers 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 sustained.

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 been continuously residing in the United States since March 9, 2001, to the date of filing her application. The director, therefore, denied the application. It is noted that the director erred in stating that the period of continuous residence began on March 9, 2001. The director should have stated from February 13, 2001, the requisite period of continuous residence for El Salvadoran TPS.

On appeal, counsel for the applicant asserts that the applicant has proven that she continuously resided in the United States from March 9, 2001 to the filing date of the application. In addition, counsel submits additional evidence in support of the applicant's continuous physical presence in the United States 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 Salvador 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, 2007, 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 her TPS application on October 3, 2003. On November 19, 2003, the applicant was provided the opportunity to submit evidence establishing her eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2). The applicant was also requested to submit a copy of her birth certificate or passport. In addition, the applicant was requested to submit evidence establishing her 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 director concluded that the applicant had failed to establish her qualifying continuous residence in the United States and denied the application on February 27, 2004.

On appeal, counsel states that the applicant has established that she has continuously resided in the United States during the qualifying period. Counsel also provides the following documentation in support of the applicant's qualifying continuous residence:

- 1) An unsigned letter dated March 16, 2004, from [REDACTED] of State Farm and Casualty Company, stating that the applicant has had a Homeowners policy in force from June 15, 1999 to October 22, 2003.

- 2) A credit certificate from Q West confirming that the applicant had service from November 11, 1999 through January 2001.
- 3) A letter dated March 16, 2004, from [REDACTED] Service Specialist of State Farm Insurance, who stated that the applicant had owned a homeowners policy from June 15, 1999 to October 22, 2003.
- 4) Copies of three Idaho Power Company Customer Credit Inquiry reports dated March 17, 2004, reflecting service dates from May 20, 1998 to October 24, 2003, May 13, 2003 to August 4, 2003, and October 27, 2003 to the date of the report (March 17, 2004), under the name of [REDACTED]
- 5) Copies of Jerome Country Tax Collector Tax Master Inquiries for 2000, 2001, and 2002, reflecting payments from the applicant.

Upon review of the evidence submitted by counsel on appeal, it is determined that the applicant has submitted sufficient evidence to establish that she has met the criteria for continuous residence as described in 8 C.F.R. § 244.2(c). Therefore, the director's decision to deny the applicant will be withdrawn, the appeal sustained, and the application will be approved.

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 sustained.