



U.S. Citizenship
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FILE: [REDACTED]
[SRC 01 211 57479]

Office: TEXAS SERVICE CENTER

Date: **JUL 27 2007**

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: 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.

Cindy M. Gomez
for
Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Texas 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 denied the application because the applicant failed to establish 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 provides a statement and additional evidence.

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 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 Salvadorans was from March 9, 2001, through September 9, 2002. Subsequent extensions of the TPS designation have been granted with the latest extension valid until September 9, 2007, upon the applicant's re-registration during the requisite time 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 initial TPS application on May 9, 2001. Upon initial submission, the applicant forwarded:

1. Copies of bank documents dated August 29, 2001 and September 19, 2001 addressed to the applicant in Rosenberg, Texas, from the Southwest Bank of Texas in Houston, Texas. The document dated August 29, 2001, indicates that she opened her account on that date.
2. Copies of the applicant's pay stubs from a company named Ross in Newark, California, for the pay periods from September 30, 2001 through October 13, 2001, October 14, 2001 through October 27, 2001, October 28, 2001 through November 10, 2001, and December 23, 2001 through January 5, 2002.
3. A copy of her Texas identification card expiring on March 30, 2008.

4. An affidavit from [REDACTED] dated April 19, 2001 who states she has known the applicant since early September, 2000, and that the applicant has been living in Rosenberg, Texas since she met her.

On January 21, 2003 and again on January 8, 2004, the applicant was provided the opportunity to submit evidence establishing that she arrived in the United States prior to February 13, 2001 and continuous physical presence in the United States from March 9, 2001, to the filing date of the application. In response the applicant provided:

5. A letter from Superintendent [REDACTED] of the Iglesia Evangelica Metodista Libre de Rosenberg dated February 15, 2004. Superintendent [REDACTED] states that while living in Rosenberg, Texas, the applicant visited his church frequently from November 1997 to the late months of 1998.
6. A copy of an Internal Revenue Service (IRS) Form 1040, U.S. Individual Income Tax Return of [REDACTED] for 2000 showing the applicant (his sister) as his dependent.
7. A receipt form dated March 7, 2001, from Sal Express in San Salvador, El Salvador showing documents being delivered to the applicant at an address in Rosenberg, Texas.
8. Copies of the applicant's pay stubs from Fiesta Mart, Inc. in Houston, Texas, for the periods ending December 29, 2002 and March 2, 2003.
9. A copy of the applicant's pay stub from a company named Ross in Newark, California, for the pay period from January 20, 2002 through February 2, 2002.
10. A copy of the applicant's IRS Form 1040, U.S. Individual Income Tax Return for 2001.

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

On appeal, the applicant resubmits a copy of the receipt form dated March 7, 2001, from Sal Express in San Salvador, El Salvador and a copy of her IRS Form 1040 for 2001 and forwards:

11. A copy of her Texas driver's license expiring on March 30, 2009.
12. A copy of a Western Union money transfer form dated January 7, 2001 indicating that the applicant forwarded funds to a person in El Salvador.
13. A copy of a sales slip dated January 21, 2001 to the applicant from Home Furniture in Rosenberg, Texas.

It is noted that affidavits from acquaintances are not, by themselves, persuasive evidence of residence or physical presence (Items # 4). Furthermore, the letter from Superintendent [REDACTED] of the Iglesia

Evangelica Methodista Libre de Rosenberg dated February 15, 2004, in which he states that while living in Rosenberg, Texas, the applicant visited his church frequently from November 1997 to the late months of 1998, is contradicted by other evidence in the record, specifically, because the applicant did not even claim to have entered the United States until late in 2000 (Item # 5). It is noted that the dates on the Western Union money transfer form and the Home Furniture sales receipt appear to have been altered (Items #12 and #13).

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 an application. 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 determined that the applicant has not submitted sufficient evidence to establish her continuous residence or continuous physical presence in the United States during the period from February 13, 2001, to the date she filed her application. She has, thereby, failed to establish that she has met the criteria described in 8 C.F.R. §§ 244.2(b) and (c). Consequently, the director's decision to deny the application for TPS will be affirmed.

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.