



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

MI

[REDACTED]

FILE:

[REDACTED]

Office: VERMONT SERVICE CENTER

Date: JUL 30 2007

[EAC 07 010 74286]

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:

[REDACTED]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the Vermont Service Center. Any further inquiry must be made to that office.

Robert P. Wiemann

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Vermont Service Center, (VSC), and is now before the Administrative Appeals Office on appeal. The appeal is sustained.

The applicant filed an initial Form I-821, Application for Temporary Protected Status, on October 10, 2006, under receipt number EAC 07 010 74286 which was denied by the VSC Director on May 2, 2007, because the applicant had failed to establish she resided in the United States as of February 13, 2001, and that she had failed to establish that she had been physically present in this country from March 9, 2001, to the date of filing.

On appeal, counsel submits extensive documentation dating from 1999 through 2007 to document the applicant's continuous residence and continuous physical presence 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 is eligible for TPS only if such alien establishes that he or she:

- (a) Is a national of a 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 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.

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. An extension of the TPS designation has been granted with validity 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 contains the following evidence that most clearly defines the issue of the applicant's continuous residence and continuous physical presence in the United States during the required time periods.

1. A copy of her daughter's State of Texas birth certificate showing that she was born on February 25, 2000, in Galveston.
2. A copy of an apartment lease contract for a property in Houston, Texas, dated October 2, 2000, showing the applicant as an occupant under the name [REDACTED] for the period from October 1, 2000 until September 30, 2001.
3. A copy of the applicant's Washington Mutual Bank, FA, in Houston, Texas, saving statement for the period from August 15, 2001 through September 17, 2001.
4. Copies of the applicant's Washington Mutual Bank, FA, in Houston, Texas, checking account statements for the periods from August 17, 2001 through September 19, 2001, and March 19, 2003 through April 16, 2003.

5. Copies of the applicant's pay stubs from B & B Restaurants, Inc., in Nassau Bay, Texas, for two week pay periods ending January 19, 1999, September 22, 2002, November 3, 2002, January 12, 2003, and May 4, 2003,
6. A copy of the applicant's Social Security Statement dated March 18, 2005, showing that she had earnings from 1995 through 1999 and from 2001 through 2004.
7. A copy of a letter dated July 13, 2005 from [REDACTED] of the Oasis of Hope Church in Webster, Texas, who states that the applicant has been a member since 1997.
8. On July 12, 2006, an Asylum Officer of the Houston, Texas Asylum Office of the former Immigration and Naturalization Service issued an Assessment to Refer after an interview with the applicant initiated by a Form I-589, Request for Asylum in the United States, that the applicant filed on October 4, 1994. The officer indicated that the applicant entered the United States on April 22, 1990.
9. Copies of check issued by the applicant's husband on October 23, 2001, evidencing the purchase of a property at [REDACTED] in League City, Texas.
10. A copy of the 2005 Tax Statement from the City of League City billing the applicant and her husband for taxes for their property at [REDACTED] in League City, Texas.

It is determined that the applicant has submitted sufficient to establish his continuous residence or continuous physical presence in the United States during the required periods. She has, thereby, established that she has met the criteria described in 8 C.F.R. §§ 244.2(b) and (c).

The applicant has satisfied all other eligibility requirements for TPS. Therefore, the application is approved.

An alien applying for TPS has the burden of proving that he or she meets the requirements listed above and is otherwise eligible under the provisions of section 244 of the Act. The applicant has met this burden.

ORDER: The appeal is sustained and the application is approved.