

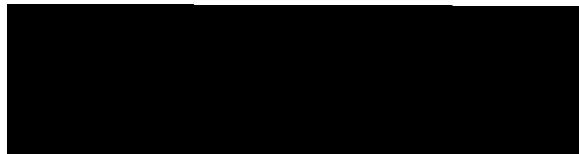
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U.S. Department of Homeland Security
U. S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090

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**U.S. Citizenship
and Immigration
Services**



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FILE:

[EAC 02 239 50134]

Office: VERMONT SERVICE CENTER

Date: **MAY 27 2009**

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 Vermont Service Center. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider, as required by 8 C.F.R. 103.5(a)(1)(i).

John F. Grisson
Acting Chief, Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Vermont 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: 1) continuously resided in the United States since February 13, 2001; and 2) been continuously physically present in the United States since March 9, 2001. The director, therefore, denied the application.

On appeal, the applicant submits additional evidence in an attempt to establish her qualifying continuous residence and continuous physical presence in the United States.

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 10, 2010, upon the applicant's re-registration during the requisite period.

The initial registration period for El Salvadorans was from March 9, 2001 through September 9, 2002. The record shows that the applicant filed her initial TPS application on July 3, 2002.

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 United States Citizenship and Immigration Services (USCIS). 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 July 3, 2002. In support of her application, the applicant submitted a copy of her birth certificate with English translation, her Salvadoran Identification Card, and an affidavit from [REDACTED]. On May 19, 2008, the applicant was provided the opportunity to submit evidence establishing continuous residence in the United States since 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 submitted:

1. Copies of EAD cards dated July 31, 2002, September 10, 2002, September 10, 2003, August 5, 2005, and December 18, 2006.

2. Affidavits from [REDACTED] and [REDACTED] a letter from the Department of Labor and Training dated February 18, 2003 concerning workman's compensation, and a letter from Employment Department Development dated June 23, 2006.
3. Copies of Wage Statements dated June 12, 2002, July 24, 2002, September 30, 2002, January 29, 2003, August 29, 2005, April 3, 2006, and April 17, 2006.
4. Copies of a referral form dated February 26, 2003 and an appointment referral dated March 26, 2003 from Providence Community Health Center.
5. Copies of a Renaissance Radiology bill dated March 8, 2004 for services on February 28, 2004; a Medical Identification Card dated January 27, 2004; and, a notice dated March 1, 2004, a form, dated March 10, 2004, a Patient Property Form dated February 4, 2005, and a Summary of Account dated June 6, 2006 from Riverside County Department of Public Services.
6. Copies of a Washington Mutual Statement for the period October 22, 2004 through November 19, 2004, and a Wells Fargo account statement dated April 1, 2007.

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

On appeal, the applicant submits additional evidence in an attempt to establish her continuous residence and continuous physical presence in the United States during the qualifying period. Specifically, the applicant submits copies of hand-written rent receipts dated December 1, 2001, January 1, 2001, July 1, 2001 and November 1, 2001.

The birth certificate and passport establish the applicant's identity and nationality. [REDACTED] claims that to his knowledge, the applicant came to the United States in July 2000. [REDACTED], the applicant's brother-in-law states that he has known the applicant since 2000. However, these statements have little evidentiary weight or probative value. These statements are not supported by any corroborative evidence. It is reasonable to expect that the applicant would have some type of contemporaneous evidence to support these assertions; however, no such evidence has been provided. In addition, neither affiant has demonstrated that his knowledge of the applicant's entry into the United States is independent of his personal relationship with the applicant. If this knowledge is based primarily on what the applicant told him about his entry into the United States, then his statement is essentially an extension of the applicant's personal testimony rather than independent corroboration of that testimony. Without corroborative evidence, the affidavits from acquaintances do not substantiate clear and convincing evidence of the applicant's residence in the

United States. Affidavits, without supporting evidence, are not, by themselves, persuasive evidence of residence or physical presence.

Similarly, [REDACTED] states that the applicant rented a room in her home in 2000 and 2001 and again since 2003. However, she offers no corroborative evidence to support this claim. In fact, the evidence submitted on appeal, copies of hand-written rent receipts, are for the same time frame Ms. [REDACTED] claims to have rented to the applicant. However, the receipts indicate an address that is not the same as the one provided by [REDACTED] and they are not signed by [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). The remaining evidence submitted by the applicant is dated subsequent to the dates required to establish continuous residence and continuous physical presence in the United States.

The applicant has not submitted sufficient evidence to establish that she has met the criteria for continuous residence and continuous physical presence 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.

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