



U.S. Citizenship
and Immigration
Services

(b)(6)

DATE: **SEP 27 2013**

Office: VERMONT SERVICE CENTER

FILE: [REDACTED]

IN RE: Applicant: [REDACTED]

APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254a

ON BEHALF OF APPLICANT:
[REDACTED]

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements. See also 8 C.F.R. § 103.5. Do not file a motion directly with the AAO.**

Thank you,

Ron Rosenberg
Chief, Administrative Appeals Office

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

The applicant claims to be a citizen of Syria 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: 1) her nationality; 2) she had continuously resided in the United States; and 3) she had been continuously physically present in the United States since March 29, 2012.

On appeal, counsel argues that at the time her application was filed, the applicant submitted a copy of her Syrian passport along with Form I-94, “which itself clearly indicates her country of citizenship as ‘Syria.’ ” Counsel resubmits copies of the passport and Form I-94 along with a copy of the applicant’s renewal Syrian passport issued on May 6, 2008. Counsel also submits additional evidence in an attempt to establish the applicant’s continuous residence and continuous physical presence in the United States during the requisite 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, now the Secretary, Department of Homeland Security (Secretary), 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 Secretary 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.

The term *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 term *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.

On March 29, 2012, the Secretary designated Syria as a country eligible for TPS. This designation allowed nationals of the Syrian Arab Republic (and persons without nationality who last habitually resided in Syria) who have continuously resided and who have been continuously physically present in the United States since March 29, 2012, to apply for TPS. The initial registration period for the designation began on March 29, 2012, and ended on September 25, 2012. On June 17, 2013, the Secretary announced an extension of the TPS designation for Syria until March 31, 2015, 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 U.S. 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 first issue to be addressed is the applicant's nationality.

At the time the applicant filed her initial TPS application, she presented a copy of a passport and Form I-94, Arrival/Departure Record. Prior to denying the application, the director, in a notice dated December 10, 2012, informed the applicant that the passport was not sufficient to establish her nationality as it did not indicate the name of the issuing country.

Contrary to counsel's assertion, the Form I-94 serves to establish what an individual has claimed as his/her citizenship at the time of admission to the United States; it is not proof of actual citizenship. Therefore, counsel's assertion that the director had ignored these documents is without merit.

On appeal, counsel submits a copy of a passport which clearly identifies that a Syrian Arab Republic passport was issued to the applicant by the Syrian Embassy in Washington, D.C. on June 5, 2008. The applicant has credibly established her nationality and therefore the director's finding on this ground will be withdrawn.

The second issue to be addressed is whether the applicant has established her continuous residence and her continuous physical presence in the United States since March 29, 2012.

Along with her TPS application, the applicant submitted a letter dated April 25, 2012, from [REDACTED] pastor of [REDACTED] in Teaneck, New Jersey, who indicated that the applicant has been a parishioner at the cathedral since her arrival in the United States. The affiant indicated that for the past ten years the applicant has been an active member of its ladies auxiliary.

On December 10, 2012, the applicant was also requested to submit evidence establishing her continuous residence and continuous physical presence since March 29, 2012, in the United States. The applicant, in response, provided copies of bank statements from [REDACTED] for the period

from August 31, 2012 through January 14, 2013, and a copy of a driving test from the Motor Vehicle Commission of New Jersey dated January 17, 2013.

The director determined that the letter from [REDACTED] was not supported by any documentary evidence and failed to specify information regarding the applicant's residence or dates of her physical presence. The director concluded that the applicant had failed to submit sufficient evidence to establish her eligibility for TPS and denied the application on March 15, 2013.

On appeal, counsel submits:

- A passenger itinerary receipt from [REDACTED] which indicates that the applicant traveled round-trip from Newark, New Jersey to Tampa, Florida in April 2012.
- An additional letter dated May 2, 2013, from [REDACTED] who reaffirmed the contents of his initial letter. The affiant states that in April 2012, the applicant worked with the ladies auxiliary during the [REDACTED].
- A letter dated April 4, 2013, from [REDACTED] of Woodland Park, New Jersey, who indicated that he has known the applicant for 18 years. The affiant attested to the applicant's residence at [REDACTED], New Jersey "until on/or about the year of 2003, in which time she reunited with her family and moved to [REDACTED] NJ and has resided there since." The affiant also attested to the applicant's moral character.
- A letter notarized April 8, 2013, from [REDACTED] of Flanders, New Jersey, who indicates that he has been a friend of the applicant's brother, [REDACTED] for approximately 15 years, that the applicant has been residing with the brother during the entire time he has known the brother at [REDACTED], New Jersey; and that the applicant has been the primary caretaker of her parents. The affiant attested to the applicant's moral character.

The AAO does not view these documents as substantive to support a finding that the applicant has continuously resided in and has been continuous physically presence in the United States during the requisite period.

- The bank statements from [REDACTED] have little probative value as they only serve to establish the applicant's presence in the United States since August 31, 2012. No statement from the bank was provided indicating the date the applicant's account was opened.
- The passenger itinerary receipt only serves to establish that an airline ticket had been issued in the applicant's name. No corroborating evidence indicating that the applicant had actually travelled was provided.

- The letters from [REDACTED] have little evidentiary weight or probative value as they do not conform to the basic requirements specified in 8 C.F.R. § 244.9(a)(2)(v). Most importantly, the pastor does not explain the origin of the information to which he attests.
- [REDACTED] indicates that the applicant has been residing at [REDACTED] since he has known her brother (1998). However, in his letter, [REDACTED] attests to the applicant residing at a different address up until 2003. Further, the affiants' statements are not supported by any corroborative evidence. The letters from the affiants do not provide detailed accounts of an ongoing association establishing a relationship under which the affiants could be reasonably expected to have personal knowledge of the applicant's residence, activities and whereabouts during the requisite periods.

It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the applicant submits competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

The applicant has failed to submit sufficient evidence to establish her continuous residence and her continuous physical presence in the United States since March 29, 2012. 8 C.F.R. § 244.2(b) and (c). Consequently, the director's decision to deny the application for TPS on these grounds 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 TPS 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.