



U.S. Citizenship  
and Immigration  
Services

(b)(6)

DATE: **AUG 06 2015**

FILE #: [REDACTED]  
APPLICATION RECEIPT #: [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:

NO REPRESENTATIVE OF RECORD

Enclosed is the non-precedent decision of the Administrative Appeals Office (AAO) for your case.

If you believe we incorrectly decided your case, you may file a motion requesting us to reconsider our decision and/or reopen the proceeding. The requirements for motions are located at 8 C.F.R. § 103.5. Motions must be filed on a Notice of Appeal or Motion (Form I-290B) **within 33 days of the date of this decision**. The Form I-290B web page ([www.uscis.gov/i-290b](http://www.uscis.gov/i-290b)) contains the latest information on fee, filing location, and other requirements. **Please do not mail any motions directly to the AAO.**

Thank you,

A handwritten signature in black ink, appearing to be "Ron Rosenberg", written over a light blue horizontal line.

Ron Rosenberg  
Chief, Administrative Appeals Office

**DISCUSSION:** The Director, Vermont Service Center, denied the application. The matter is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The applicant is a native of Russia and 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. § 1254a. On July 31, 2014, the director denied the application because the applicant failed to establish continuous residence since June 17, 2013, and continuous physical presence since October 1, 2013 in the United States

On appeal, the applicant acknowledges that she is not eligible for the benefit sought, as she first entered the United States on October 4, 2013. However, the applicant requests that, due to the conditions in Syria, her application be reconsidered and approved.

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, 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 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. *Id.*

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. *Id.*

On March 29, 2012, the Secretary designated Syria as a country eligible for TPS. This designation allowed nationals of 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. On June 17, 2013, the Secretary re-designated Syria for TPS eligibility which became effective on October 1, 2013. This re-designation allowed nationals of Syrian Arab Republic (and persons without nationality who last habitually resided in Syria) who have continuously resided in the United States since June 17, 2013, and who have been continuously physically present in the United States since October 1, 2013, to apply for TPS. On January 5, 2015, the Secretary announced an extension of the TPS designation for Syria until September 30, 2016, 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. 8 C.F.R. § 244.9(b). To meet this burden of proof the applicant must provide supporting documentary evidence of eligibility apart from the applicant's own statements. *Id.*

The applicant filed this TPS application on October 25, 2013. The record contains copies of the biographical pages of the applicant's Syrian passport and U.S. visa issued on October 1, 2013 in Lebanon. The U.S. visa biographical page indicates that the applicant was admitted into the United States on October 4, 2013 as a nonimmigrant student (F-1).

The applicant's statements on appeal have been considered. However, the applicant's arrival in the United States was subsequent to the eligibility period. Therefore, under this re-designation,<sup>1</sup> the applicant cannot meet the criteria for continuous residence in the United States since June 17, 2013, and continuous physical presence since October 1, 2013 in the United States as described in 8 C.F.R. § 244.2(b) and (c). Consequently, the director's decision to deny the TPS application on these grounds will be affirmed.

The appeal is dismissed for the above stated reasons, with each considered as an independent and alternative basis for dismissal. In application proceedings, it is the applicant's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has not been met.

**ORDER:** The appeal is dismissed.

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<sup>1</sup> On January 5, 2015, the Secretary re-designated Syria for TPS eligibility which became effective on April 1, 2015. The current re-designation allowed nationals of Syrian Arab Republic (and persons without nationality who last habitually resided in Syria) who have continuously resided in the United States since January 5, 2015 and who have been continuously physically present in the United States since April 1, 2015, to apply for TPS. The initial registration period for the current re-designation began on January 5, 2015 and ended on July 6, 2015. See 80 FR 245.