



U.S. Citizenship
and Immigration
Services

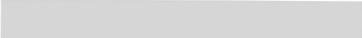
(b)(6)



DATE: **MAY 08 2015**

Office: VERMONT SERVICE CENTER

FILE: 

IN RE: Applicant: 

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

ON BEHALF OF APPLICANT:



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 on appeal. The appeal will be dismissed.

The applicant, a native and citizen of the Syrian Arab Republic (Syria), is seeking Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254a. On July 10, 2014, the director denied the application because the applicant failed to establish that he had continuously resided in the United States since June 17, 2013, and had been continuously physically present in the United States since October 1, 2013.

On appeal, the applicant asserts that the director's decision was reached in error because he had submitted sufficient evidence to establish continuous residence in the United States since June 17, 2013. The applicant submits a copy of document from [REDACTED]

Applicable Law

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an alien 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; 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

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.¹

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.

The burden of proof is upon the applicant to establish that he or she meets the above requirements. 8 C.F.R. § 244.9(a)(3). 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).

On March 29, 2012, the Secretary designated Syria as a country eligible for TPS. *See 77 Federal Register (FR) 19026*. This designation allowed nationals of Syria (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 extended and re-designated Syria for TPS which became effective on October 1, 2013. *See 78 FR 36223*. This extension and re-designation allowed nationals of Syria (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.

Facts and Procedural History

The applicant is a native and citizen of Syria who entered the United States on September 9, 2013 with a B-2 nonimmigrant visa. The applicant filed the instant application for TPS on September 26, 2013. On April 1, 2014, the director issued a Request for Evidence (RFE), requesting that the applicant submit evidence to establish his continuous residence in the United States since June 17, 2013 and his continuous physical presence in the United States since October 1, 2013, and evidence of any brief, casual, and innocent absence from the United States during the requisite period. The applicant timely responded with additional evidence, which the director found insufficient to establish the applicant's eligibility.

¹ As used in 8 C.F.R. § 244.1, *brief, casual, and innocent absence* means a departure from the United States that was ... of short duration and reasonably calculated to accomplish the purpose(s) for the absence; ... was not the result of an order or deportation, an order of voluntary departure, or an administrative grant of voluntary departure without the institution of deportation proceedings; and the purposes ... or actions while outside the United States were not contrary to law.

Analysis

The regulation at 8 C.F.R. § 244.9(a)(2) provides an illustrative list of evidence the applicant is required to submit as proof of residence in the United States during the requisite period of time however, the submission of any other relevant document is permitted pursuant to 8 C.F.R. § 244.9(a)(2)(L).

The evidence that the applicant submits in support of his claim that he has resided in the United States and has been continuously physically present in the United States during the requisite period consists of the following:

- A copy of his Syrian Passport, , bearing a United States nonimmigrant B-2 visa issued in [REDACTED] Lebanon on August 2, 2013 with an admission stamp indicating he was admitted to the United States on September 9, 2013;
- A copy of a Rental Agreement (Month-to Month) from [REDACTED] Texas, dated September 23, 2013;
- A copy of an Invoice from [REDACTED], dated April 8, 2014; and
- A copy of Texas [REDACTED] Lease, between [REDACTED] (Landlord) and the applicant (tenant) for an apartment.

The evidence of record indicates that the applicant entered the United States on September 9, 2013. There is no indication that he resided in the United States prior to the entry date of September 9, 2013.

The applicant has also failed to establish his continuous physical presence in the United States. Although the applicant submitted documents establishing his residence in the United States from September 9, 2013, the record indicates that the applicant subsequently left the United States and was admitted into the country through [REDACTED] Texas on March 7, 2014. The applicant does not submit evidence of when he left the United States, the duration of his absence from the United States, and the reason for his departure from the United States. As required by regulations at 8 C.F.R. § 244.1, an applicant must submit evidence of any “brief, casual, and innocent” absence from the United States during the requisite period and the purpose and the duration of such absence. Here, the applicant has not submitted evidence of when he departed from the United States, how long he was absent from the United States and the reason for his departure from the United States. Accordingly, while the evidence of record shows that the applicant resided in the United States from September 9, 2013, he has failed to establish his continuous physical presence in the United States during the requisite period.

Based on the evidence of record, the applicant has failed to establish his continuous residence and continuous physical presence in the United States during the requisite periods.² Accordingly, the

² 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. On January 5,

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applicant has failed to establish his eligibility for TPS as required under section 244 of the Act. As such, the director's decision to deny the application for TPS will be affirmed.

Conclusion

The burden of proof is on the applicant to establish that he or she is eligible for TPS. 8 C.F.R. § 244.9(a)(3). Here, that burden has not been met and the appeal must be dismissed.

ORDER: The appeal is dismissed.

2015, the Secretary also re-designated Syria for TPS eligibility which became effective on April 1, 2015. The current re-designation allowed nationals of Syria (and persons without nationality who last habitually resided in Syria) who have continuously resided in the United States since April 1, 2015, to apply for TPS. The initial registration period in the current re-designation began on January 5, 2015, and ends on July 6, 2015.