



U.S. Citizenship
and Immigration
Services

(b)(6)

DATE: **MAY 08 2015**

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: SELF-REPRESENTED

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 August 19, 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 he has been continuously residing in the United States since June 2013 and submits copies of documents in support of the appeal.

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 applicant is a native and citizen of Syria who entered the United States on June 26, 2013 with an F-1 nonimmigrant visa with authorization to remain in the United States for the duration of the status. The applicant filed the instant application for TPS on August 8, 2013. On May 8, 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. Accordingly, the director denied the TPS application.

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.

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:

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.

- A copy of his Syrian Passport, bearing a United States F-1 visa issued in [REDACTED] Lebanon on May 28, 2013;
- A copy of a Form I-94 (Admission Record) showing an entry date of June 26, 2013;
- A copy of a Rental Agreement for a home in [REDACTED] New Jersey dated July 1, 2013;
- Employment letter from [REDACTED] dated August 25, 2014 indicating that the applicant has been employed from July 2013;
- School records; and
- Copies of Bank Statements and insurance identification card.

The record indicates that the applicant entered the United States on June 26, 2013. While the applicant asserts on appeal that he arrived in the United States in June 2013 and has continuously resided in the country since arrival, the evidence of record does not establish his residence as of June 17, 2013.

Although the applicant has submitted evidence to establish his continuous physical presence in the United States from June 26, 2013, he has failed to provide evidence of his residence in the United States since June, 17, 2013.

Based on the evidence of record, the applicant has failed to establish his continuous residence in the United States for the requisite time period.² Accordingly, the applicant has failed to establish his eligibility for TPS under section 244 of the Act. The director's decision to deny the application for TPS will be affirmed.

In application, 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 and the appeal must be dismissed.

ORDER: The appeal is dismissed.

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, 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.