

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Service
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

(b)(6)

DATE: **MAY 18 2015** Office: VERMONT SERVICE CENTER

FILE: [REDACTED]

I-290B: [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.

Thank you,

A handwritten signature in black ink, appearing to read "Ron Rosenberg".

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The application for Temporary Protected Status was denied by the Director, Vermont Service Center, and the matter is now before the Administrative Appeals Office on appeal. The appeal will be sustained.

The applicant is 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. § 1254a. On June 25, 2014, the director denied the application because the applicant failed to establish she had continuously resided in the United States since June 17, 2013, and was continuously physically present in the United States since October 1, 2013.

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

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 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. The initial registration period for the re-designation began on June 17, 2013, and ended on December 16, 2013. On January 5, 2015, the Secretary also 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 his or her burden of proof the applicant must provide supporting documentary evidence of eligibility apart from his or her own statements. *Id.*

At the time the TPS application was filed, the applicant did not provide evidence of her continuous residence and continuous physical presence in the United States during the requisite periods.

In response to a Request for Evidence dated May 7, 2014, the applicant submitted a copy of a lease agreement entered into between the landlord, the applicant, and four other individuals on July 1, 2013, and a medical appointment notice for December 19, 2013 from [REDACTED] in [REDACTED] Tennessee. The director determined that the evidence submitted did not establish the applicant's continuous residence and continuous physical presence in the United States during the requisite periods and denied the application.

On appeal, the applicant asserts that she has been residing in the United States since arriving on September 18, 2012; that she lived in [REDACTED] Michigan with her brother from September 18, 2012 through June 2013; that on June 27, 2013 she moved with her brother to [REDACTED] Tennessee, where she has since been residing. The applicant submits:

- A notarized affidavit from her brother, [REDACTED], of [REDACTED] Tennessee, who indicates that the applicant resided with him in [REDACTED], Michigan from September 18, 2012 through June 27, 2013, and in [REDACTED] Tennessee since June 2013.
- A notarized letter from Very Reverend [REDACTED], [REDACTED], Michigan, indicating that he has been the pastor at the church for over ten years. Father [REDACTED] asserts that he is personally familiar with the applicant, as she was attending services at the church from January to June 2013.

- A statement dated July 11, 2014, from [REDACTED] Tennessee, indicating that they have been neighbors of the applicant since July 1, 2013 and have visited the applicant in her home.
- Billing statements, receipts of medical services and follow-up appointments dated December 2013 through September 2014 from [REDACTED] and [REDACTED] in [REDACTED] Tennessee.
- A Certificate of Participation in an English Class along with an affidavit from [REDACTED] ESL director at [REDACTED] who indicates that the applicant had enrolled in and regularly attended a weekly 2013-2014 English as a Second Language program.
- Applications for a Tennessee Driver's License filed June 26, 2014 and July 3, 2014 and a Tennessee driver's license issued on July 3, 2014.

The applicant also submitted several photographs in attempt to establish her continuous residence and continuous physical presence during the requisite periods. These photographs have minimal weight as evidence of continuous residence and physical presence in the United States, as they have no identifying dates to indicate they were taken during the requisite periods.

Nevertheless, coupled with the evidence previously provided, the applicant has submitted sufficient probative evidence on appeal to establish her continuous residence and continuous physical presence in the United States during the requisite periods. Accordingly, the director's decision to deny the application on these grounds will be withdrawn, and the application will be approved.

An alien applying for TPS has the burden of proving that he or she meets the requirements enumerated above and is otherwise eligible for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has been met.

ORDER: The appeal is sustained.