



U.S. Citizenship
and Immigration
Services

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[WAC 05 228 73466]

OFFICE: California Service Center

DATE: MAR 13 2007

IN RE: Applicant: [REDACTED]

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

ON BEHALF OF APPLICANT: Self-represented

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann
Robert P. Wiemann, Chief
Administrative Appeals Office

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

The applicant is a citizen of El Salvador 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 on the grounds that the applicant failed to establish her eligibility for TPS under section 244 of the Act.

On appeal the applicant submits additional documentation and asks that her case be reviewed.

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 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 Attorney General 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 Temporary Protected Status during the initial registration period announced by public notice in the FEDERAL REGISTER, or
 - (2) During any subsequent extension of such designation if at the time of the initial registration period:
 - (i) The applicant is a nonimmigrant or has been granted voluntary departure status or any relief from removal;
 - (ii) The applicant has an application for change of status, adjustment of status, asylum, voluntary departure, or any relief from removal which is pending or subject to further review or appeal;
 - (iii) The applicant is a parolee or has a pending request for reparole; or

- (iv) The applicant is a spouse or child of an alien currently eligible to be a TPS registrant.

The phrase 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 phrase 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.

Persons applying for TPS offered to El Salvadorans must demonstrate continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States since March 9, 2001. The initial registration period for El Salvadorans was from March 9, 2001 through September 9, 2002. The record shows that the applicant filed her initial Form I-821, Application for Temporary Protected Status, on May 16, 2005.

To qualify for late registration, the applicant must provide evidence that during the initial registration period she met at least one of the conditions described in 8 C.F.R. § 244.2(f)(2) above.

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 Citizenship and Immigration Services (CIS). *See* 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. *See* 8 C.F.R. § 244.9(b).

On June 15, 2006, the service center requested the applicant, who claims to have entered the United States without inspection on February 1, 2001, to submit evidence within 33 days that she met the requirements for late registration, as well as evidence of her date of entry into the United States, her nationality/identity, her continuous residence in the United States since February 13, 2001 and her continuous physical presence in the country since March 9, 2001, and her current status. The record shows that the applicant failed to respond to the request.

On August 5, 2006, the director denied the application on the ground that the applicant had failed to establish her eligibility for late registration.

The applicant filed a timely appeal, but did not provide any evidence that she is eligible for late registration under any of the criteria enumerated at 8 C.F.R. § 244.2(f)(2). Accordingly, the director's decision to deny the application will be affirmed.

Beyond the decision of the director, the applicant has not submitted sufficient evidence to establish that she satisfies the continuous physical presence and continuous residence requirements set forth in 8 C.F.R. § 244.2(b) and (c). On appeal, the applicant submits an assortment of documents, all photocopies, including a passport issued by the El Salvadoran consulate in San Francisco, California, a letter from the pastor of a church in Mendota, California, stating that the applicant has been a member of the church from February 1, 2001 to 2006, monthly rental receipts from January 2001 to March 2006, and a series of pay receipts from a farm labor contractor to the applicant. While the evidence establishes the applicant's identity as an El Salvadoran national, the AAO determines that the foregoing documentation fails to establish that the applicant meets the continuous residence and continuous physical presence requirements for TPS applicants from El Salvador.

The letter from the church pastor, dated August 20, 2006, does not provide the applicant's addresses from February 2001 onward, does not state whether the pastor has served in that capacity from February 2001, and does not indicate whether the information about the applicant's church membership since February 2001 is based on the pastor's personal knowledge. As such, the letter does not meet the evidentiary requirements prescribed in 8 C.F.R. § 244.9(a)(2)(v). The pay statements from the farm labor contractor, [REDACTED] which are virtually illegible in their photocopied form, appear to identify the applicant as the recipient of periodic payments between 2001 and 2005, but do not state the name and location of the employer or the dates the work was performed. As such, the pay statements do not meet the evidentiary requirements prescribed in 8 C.F.R. § 244.9(a)(2)(i).

The rental receipts dated from 2001 to 2006 do not identify any residential address except to state that they refer to "Apt. #2." The applicant has not identified any residential address(es), past or present, in her correspondence with CIS. Furthermore, the earliest of the rental receipts states that the landlord received the first month's rent from the applicant on January 15, 2001, which was prior to the date – February 1, 2001 – that the applicant claims she entered the United States.

It is incumbent upon an applicant to resolve any inconsistencies in the record by independent objective evidence. Attempts to explain or reconcile such inconsistencies will not suffice without competent evidence pointing to where the truth lies. *See Matter of Ho*, 19 I&N Dec. 582, 591-92, (BIA 1988). Moreover, doubt cast on any aspect of the applicant's evidence reflects on the reliability of the petitioner's remaining evidence. *See id.*

Based on the foregoing analysis, the AAO determines that the documentation of record fails to meet the evidentiary standards set forth in 8 C.F.R. § 244.9(a)(2) to establish that the applicant has been continuously physically present in the United States since March 9, 2001, and a continuous resident of the United States since February 13, 2001, as required for TPS applicants from El Salvador under 8 C.F.R. § 244.2(b) and (c).

Accordingly, the director's decision to deny the application for TPS will be affirmed, with each of the reasons discussed above considered an equal 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 that burden.

ORDER: The appeal is dismissed.