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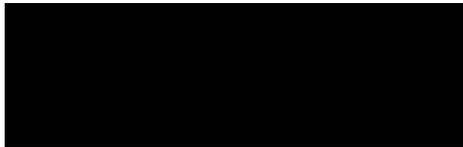
U.S. Department of Homeland Security
U. S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



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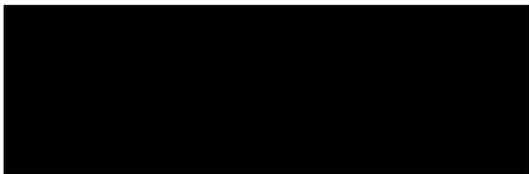


FILE: [REDACTED] Office: VERMONT SERVICE CENTER Date SEP 01 2009
[EAC 08 040 80475]

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:



INSTRUCTIONS:

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

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider, as required by 8 C.F.R. 103.5(a)(1)(i).

John F. Grissom
Acting 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 is a native and 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 determined that the applicant failed to establish she: 1) had continuously resided in the United States since February 13, 2001; 2) had been continuously physically present in the United States since March 9, 2001; and 3) was eligible for late registration. The director, therefore, denied the application.

On appeal, counsel for the applicant states that the applicant has established eligibility for late initial TPS filing and has established continuous residence and continuous physical presence in the United States. The applicant also submits evidence in an attempt to establish her qualifying continuous residence and continuous physical presence in the United States.

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 is eligible for temporary protected status 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 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 TPS 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.

- (g) Has filed an application for late registration with the appropriate Service director within a 60-day period immediately following the expiration or termination of conditions described in paragraph (f)(2) of this section.

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.

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 that they have continuously resided in the United States since February 13, 2001, and that they have been continuously physically present in the United States since March 9, 2001. On July 9, 2002, the Attorney General announced an extension of the TPS designation until September 9, 2003. Subsequent extensions of the TPS designation have been granted, with the latest extension granted until September 10, 2010, upon the applicant's re-registration during the requisite period.

The initial registration period for El Salvadorans was from March 9, 2001 through September 9, 2002. The record shows that the applicant filed this application on October 19, 2007. The applicant filed her initial TPS application on March 23, 2002, under receipt number EAC 02 150 51036. The Director, Vermont Service Center, denied that application on March 15, 2004 because the applicant failed to establish continuous residence and continuous physical presence in the United States during the qualifying periods. The applicant filed a subsequent TPS re-registration application on January 24, 2005 under receipt number WAC 05 116 74345. The Director, California Service Center, denied that application on August 16, 2005 because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS. The applicant filed an appeal of that decision on September 28, 2005. The Director, California Service Center, rejected the appeal as untimely filed.

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 United States 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).

The first issue in this proceeding is whether the applicant is eligible for late registration.

The record of proceeding confirms that the applicant filed her application after the initial registration period had closed. To qualify for late registration, the applicant must provide evidence that during the initial registration period from March 9, 2001 through September 9, 2002, she fell within the provisions described in 8 C.F.R. § 244.2(f)(2) (listed above). If the qualifying condition or application has expired or been terminated, the individual must file within a 60-day period immediately following the expiration or termination of the qualifying condition in order to be considered for the late initial registration. 8 C.F.R. § 244.2(g).

On October 23, 2008, the applicant was provided the opportunity to submit evidence establishing her eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2). The applicant was also requested to submit evidence establishing her nationality and identity, her continuous residence in the United States since February 13, 2001, and her continuous physical presence in the United States from March 9, 2001, to the filing date of the application. The applicant, in response, provided evidence in an attempt to establish continuous residence and continuous physical presence during the qualifying period. The applicant also provided a copy of her birth certificate with English translation. The file also contains a copy of the applicant's El Salvadoran Identification Card. The applicant also stated that she was eligible for late initial TPS registration as the spouse of a TPS-eligible alien, and provided copies of previously issued employment authorization cards from her husband. The applicant did not present sufficient evidence of her eligibility for late registration. Therefore, the director denied the application.

On appeal, counsel states that the applicant has established her eligibility for late initial registration for TPS and her continuous registration and continuous physical presence in the United States during the qualifying period. The applicant has established that she is married to a TPS-eligible alien and that she is eligible for late initial registration pursuant to 8 C.F.R. § 244.2(f)(2). However, while USCIS regulations may allow spouses of TPS beneficiaries to file their applications after the initial registration period had closed; these regulations do not relax the requirements for eligibility for TPS. The spouse is still required to meet the continuous residence and continuous physical presence requirements as provided in 8 C.F.R. §§ 244.2(b) and (c). As will be discussed below, the applicant has not established her continuous residence and continuous physical presence in the United States during the qualifying period.

The second and third issues in this proceeding are whether the applicant has established her continuous residence in the United States since February 13, 2001, and her continuous physical presence in the United States since March 9, 2001.

As stated above, the applicant was requested on October 14, 2008 to submit evidence establishing her qualifying continuous residence and continuous physical presence in the United States. In response, the applicant submitted the following documentation:

1. Copies of statements from [REDACTED] and [REDACTED] and an illegibly signed statement.
2. Copies of money order receipts dated March 25, 2002, and October 9, 2007.
3. Copies of 2004 Form W-2, Wage and Tax Statements.

The director concluded that the applicant had failed to establish her qualifying residence and physical presence in the United States during the requisite periods and denied the application. On appeal, the applicant submits:

4. Copies of 2001 Form W-2. Wage and Tax Statements.
5. Copies of medical records dated from January 3, 2002 through November 13, 2008.
6. Copies of a personal statement and statements from [REDACTED] and [REDACTED]
7. Copies of a Social Security Administration Statement indicating the years worked as 2003 through 2006.

The applicant also resubmits evidence that was previously part of the record.

[REDACTED] for Royal Institutional Services, Inc. and [REDACTED] for Angelica, formerly Royal Institutional Services, state that the applicant was employed as a production worker at their company from January 21, 2001 until August 23, 2001. However, these statements have little evidentiary weight or probative value as they do not provide basic information that is expressly required by 8 C.F.R. § 244.9(a)(2)(i). Specifically, the affiants do not provide the address where the applicant resided during the period of her employment. [REDACTED] Associate Pastor of St. Anthony's Parish states that the applicant is an active member of the church. However, this statement also has little evidentiary weight or probative value as it does not provide basic information that is expressly required by 8 C.F.R. § 245.9(a)(2)(v). Specifically, [REDACTED] does not explain the origin of the information to which he attests, nor does he provide the dates of the applicant's membership at the church.

In her initial statement, [REDACTED] states that she has known the applicant since January 2001. In her later statement, [REDACTED] states that the applicant has worked in her restaurant since

again in June 2001 in Massachusetts. [REDACTED] states that he has known the applicant since she arrived in the United States in November 2001. [REDACTED] states that she has known the applicant since 2001. [REDACTED] states that he has known the applicant since January 2001. [REDACTED] states that he has known the applicant since February 14, 2001. [REDACTED] states that he has known the applicant and her children since January 2001. The author of the illegible signed statement states that he or she has known the applicant since February 2001. These statements again have little evidentiary weight or probative value. These statements are not supported by any corroborative evidence. It is reasonable to expect that the applicant would have some type of contemporaneous evidence to support these assertions; however, no such evidence has been provided.

It is also noted that [REDACTED] and [REDACTED] state that the applicant was employed by Royal Institutional Services from January 21, 2001 and [REDACTED] states that the applicant worked in her restaurant from January 21, 2001. Similarly, the applicant also indicates on her TPS application that she entered the United States in November 1999. However, on her statement submitted on appeal, the applicant states that she entered the United States in November 2000. These discrepancies have not been satisfactorily explained. Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth, in fact, lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988).

The remaining evidence is dated subsequent to the dates required to establish continuous residence and continuous physical presence in the United States. This evidence is therefore of little or no probative value.

The applicant has not submitted sufficient evidence to establish her qualifying residence since February 13, 2001, and her continuous physical presence in the United States from March 9, 2001 to the date the application was filed. She has, therefore, failed to establish that she has met the criteria described in 8 C.F.R. § 244.2(b) and (c). Consequently, the director's decision to deny the application for temporary protected status on these grounds will be affirmed.

The application will be denied for the above stated reasons, with each considered as an independent and alternative basis for denial. An alien applying for temporary protected status 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 this burden.

ORDER: The appeal is dismissed.