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U.S. Citizenship  
and Immigration  
Services

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FILE:

Office: NEBRASKA SERVICE CENTER

Date: JUL 27 2004

IN RE:

Applicant:

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, Director  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, Nebraska 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, the applicant claims that she entered the United States in May 2000.

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 entry on or prior to February 13, 2001, 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. A subsequent extension of the TPS designation has been granted by the Secretary of the Department of Homeland Security, with validity until March 9, 2005, upon the applicant's re-registration during the requisite time period.

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 application on September 13, 2002.

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). 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 January 5, 1999 through August 20, 1999, 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. *See* 8 C.F.R. § 244.2(g).

On June 3, 2003, 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 residence in the United States since February 13, 2001, and her physical presence in the United States from March 9, 2001. The applicant, in response, provided evidence in an attempt to establish her continuous residence and her physical presence in the United States. She did not present evidence of her eligibility for late registration. Therefore, the director denied the application.

On appeal, the applicant states that she entered the United States in May 2000. The applicant also provides

additional evidence in an attempt to establish her continuous residence and physical presence in the United States during the qualifying period. However, this does not mitigate the applicant's failure to file her TPS application within the initial registration period. The applicant has not submitted any evidence to establish that she has met any of the criteria for late registration described in 8 C.F.R. § 244.2(f)(2). Consequently, the director's conclusion that the applicant failed to establish her eligibility for late registration will be affirmed.

The second issue in this proceeding is 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 June 3, 2003, to submit evidence establishing her qualifying residence and physical presence in the United States. In response, the applicant submitted the following documentation:

1. A letter from [REDACTED]
2. Letters from [REDACTED] regarding purchases made on July 16, 2002, January 18, 2002, and March 28, 2002 respectively.
3. A letter from [REDACTED]
4. A copy of the applicant's Employment Authorization card.
5. A copy of the applicant's El Salvadoran identity card.
6. Copies of money transfer receipts dated January 29, 2003, April 10, 2003 and April 27, 2003.
7. A copy of a hospital receipt dated June 17, 2003.

The identity card establishes the applicant's nationality and identity. [REDACTED] states that the applicant lived with her since May 8, 2000. According to [REDACTED] the applicant pays him rent and utilities. However, Mr. [REDACTED] statement is not supported by any corroborative evidence. It is reasonable to expect that the applicant would have some type of contemporaneous evidence, such as rent or utility receipts to support these assertions; however, no such evidence has been provided. It should also be noted that the letter is unsigned. Thus, the statement is of little or no probative value.

In her letter, [REDACTED] claims that the applicant has provided childcare for her children since May 13, 2000. However, the letter is not in affidavit form and is not signed and attested to by [REDACTED]. In addition, it fails to provide the applicant's address at the time of employment. Therefore, it is of little or no probative value in determining the applicant's continuous residence and physical presence during the qualifying period. The money transfer receipts and the hospital receipts are all dated subsequent to the qualifying dates required to establish continuous residence and physical presence in the United States. They are therefore also of no probative value in determining the applicant's eligibility for TPS.

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 furnished:

1. A copy of a letter from [REDACTED]

2. A copy of a letter from [REDACTED]
3. Copies of two letters from [REDACTED]
4. A copy of a money transfer receipt dated May 20, 2003.
5. A copy of a letter from [REDACTED]
6. A copy of an Investigator's Motor Vehicle Accident Report dated June 13, 2003.
7. A copy of a pharmacy document dated June 28, 2003.
8. A copy of a Retainer Agreement and Release of Information dated June 19, 2003.
9. Copies of hospital appointments dated June 25, 2003, July 28, 2003 July 30, 2003

The applicant also resubmitted evidence previously provided.

In his letter, [REDACTED] states that the applicant has been a registered parishioner since May 8, 2000. However, the letter has little evidentiary weight or probative value as it does not provide basic information that is expressly required by 8 C.F.R. § 244.9(a)(2)(v). Specifically, the pastor does not explain the origin of the information to which he attests. In addition, the letter claims the applicant became a member on the same day the applicant claims she entered the United States, which appears questionable, thereby reducing the credibility of the statement.

[REDACTED] claims that the applicant came to Omaha on May 8, 2000. [REDACTED] states that the applicant came to Omaha on May 8, 2000, and has lived with him and provided childcare for his children. The statements from [REDACTED] and [REDACTED] regarding the applicant's claimed presence in the United States before December 30, 1998 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. Affidavits are not, by themselves, persuasive evidence of residence or presence.

[REDACTED] claims that the applicant has lived with her since May 8, 2000. However, this is in direct conflict with the unsigned statement presented in response to the Notice of Intent to Deny from [REDACTED] who also claimed the applicant resided with him from May 8, 2000. Consequently, the two statements offer conflicting information and, therefore, neither is credible. The remaining documents provided by the applicant are all dated subsequent to the qualifying dates required to establish continuous residence and physical presence.

The applicant has submitted insufficient evidence to establish her qualifying residence or physical presence in the United States during the period from February 13, 2001 and March 9, 2001 respectively. 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 this ground will also be affirmed.

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.