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U.S. Department of Homeland Security  
20 Massachusetts Ave., N.W., Rm. A3042  
Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services



*MU*

FILE:



Office: VERMONT SERVICE CENTER

Date: NOV 03 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, 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 that she met the qualification for late registration. He further determined that the applicant failed to establish she had continuously resided in the United States since February 13, 2001. The director, therefore, denied the application.

On appeal, the applicant asserts her claim of eligibility for TPS and indicates that she was not submitting a separate brief or evidence along with her appeal.

Although a Form G-28, Notice of Entry of Appearance as Attorney or Representative, has been submitted, the individual named is not authorized under 8 C.F.R. § 292.1 or 292.2 to represent the applicant. Therefore, the applicant shall be considered as self-represented and the decision will be furnished only to the applicant.

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 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.

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.

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.

Persons applying for TPS offered to El Salvadorans must demonstrate entry on or prior to February 13, 2001, continuous residence in the United States since February 13, 2001, and continuous physical presence 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 reflects that the applicant filed her initial TPS application on November 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 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 late initial registration. See 8 C.F.R. § 244.2(g).

Because evidence furnished with her application was insufficient to establish eligibility for TPS, the applicant was requested on March 6, 2003, 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 continuous residence since February 13, 2001, and continuous physical presence from March 9, 2001, to the date of filing. In response, the applicant provided:

1. A copy of an affidavit dated April 1, 2003, from [REDACTED] who stated that the applicant had been staying with them since May 5, 2002.

2. A copy of an "Affidavit of Residency" dated April 1, 2003, from the applicant, stating that she came to the United States on June 5, 2001.
3. A copy of an undated letter in Spanish from [REDACTED] without an English translation.
4. A copy of an affidavit in Spanish dated August 7, 2002, from [REDACTED]
5. Copies of pages from her Salvadoran passport issued on May 1, 2001.
6. A copy of her B1/B2 nonimmigrant visitor visa to the United States issued on January 11, 1996 with an expiration date of January 10, 2006.
7. A copy of her Salvadoran birth certificate with an English translation.

The director reviewed the evidence furnished and determined that the applicant had failed to establish she was eligible for late registration. He noted that the applicant stated in her affidavit that she came to the United States on June 5, 2001. The director also determined that the applicant had failed to establish that she had continuously resided in the United States since February 13, 2001. The director, therefore, denied the application on May 8, 2003.

On appeal, the applicant states that she needed to work in the United States in order to support her daughter. She also asserts her right to apply for TPS. However, she did not provide any additional evidence in support of her eligibility for TPS.

The applicant's own statements as detailed in No. 2 above, indicate that she did not enter the United States until June 5, 2001. Additionally, the copies of her passport and nonimmigrant visa as detailed in No. 5 and No. 6 above, show that the applicant was admitted to the United States as a nonimmigrant visitor on June 5, 2001. It is also worth noting that her passport was issued in El Salvador on May 11, 2001. Further, it appears the applicant departed from the United States after her initial arrival, and entered El Salvador on November 14, 2001. The applicant subsequently reentered the United States approximately six months later on May 10, 2002.

The applicant must establish continuous residence in the United States since February 12, 2001, and continuous physical presence since March 9, 2001. The applicant, by her own admission, did not enter the United States until June 5, 2001, and, therefore, was not present in the United States during this period. Therefore, she could not have met the criteria described in 8 C.F.R. 244.2(b) and (c). Furthermore, the applicant has not established that she has met any of the criteria for late registration described in 8 C.F.R. § 244.2(f)(2). Accordingly, the director's decision to deny the application will 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.