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U.S. Citizenship  
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FILE: [REDACTED]  
[LIN 04 001 50129]

Office: Nebraska Service Center

Date: **AUG 09 2005**

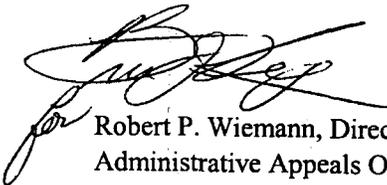
IN RE: Applicant: [REDACTED]

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, Director  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, Nebraska Service Center, and is now before the Administrative Appeals Office (AAO) 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 denied the application for Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254, because the applicant had failed to establish her eligibility for late TPS registration. The director also found that the applicant had failed to establish her qualifying continuous residence and continuous physical presence in the United States during the requisite time periods.

The record reveals that the applicant filed her initial application [LIN 02 031 51066] with the Immigration and Naturalization Service, now Citizenship and Immigration Services (CIS), on November 5, 2001. That application was denied for abandonment on June 27, 2002, for failure to respond to a request for evidence to establish her eligibility for TPS. Since the application was denied due to abandonment there was no appeal available; however, the applicant could have filed a request for a motion to reopen within 30 days from the date of the denial. The applicant did not file a motion to reopen during the requisite timeframe.

The applicant filed a subsequent Form I-821, Application for Temporary Protected Status, on September 30, 2003. The director denied this second application [LIN 04 001 50129] on February 10, 2004, because the applicant failed to establish her eligibility for TPS late registration. The director also denied the application because the applicant failed to establish her continuous residence and continuous physical presence during the requisite time periods.

On appeal, the applicant submits evidence in support of her eligibility for TPS.

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 TPS 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 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.

The phrase *brief, casual, and innocent absence*, as defined in 8 C.F.R. § 244.1, means a departure from the United States that satisfies the following criteria:

- (1) Each such absence was of short duration and reasonably calculated to accomplish the purpose(s) for the absence;
- (2) The absence was not the result of an order of deportation, an order of voluntary departure, or an administrative grant of voluntary departure without the institution of deportation proceedings; and

- (3) The purposes for the absence from the United States or actions while outside of the United States were not contrary to law.

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 since March 9, 2001. Subsequent extensions of the TPS designation have been granted, with the latest extension valid until September 9, 2006, 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 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).

On November 7, 2003, the applicant was requested 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 in the United States since February 13, 2001, and her continuous physical presence in the United States since March 9, 2001, to the date of filing her application on September 30, 2003. In addition, the applicant was requested to submit a copy of her birth certificate or passport. The applicant did not respond to the director's November 7, 2003 request; therefore, the director based his decision on the evidence contained in the record. The director determined that the applicant had failed to establish her eligibility for TPS late registration. The director also determined that the applicant had failed to submit sufficient evidence to establish her date of entry into the United States as of February 13, 2001, 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 date of filing her application on September 30, 2003. Therefore, the director denied the application on February 10, 2004.

On appeal, the applicant submits the following documentation in support of her eligibility for TPS: copies of her El Salvadoran passport and personal identification card; copies of her school records from El Salvador; an handwritten letter dated March 3, 2004, from Ms. [REDACTED] who stated that the applicant had worked for her for two years; a letter dated February 28, 2004, from [REDACTED] to the Nations, who stated that the applicant came to his church on March 20, 2000; copies of her account statements dated August 12, 2002 to September 23, 2002; a copy of her marriage certificate dated June 16, 2000; copies of her Applicant Information Worksheets dated December 14, 2001 and October 23, 2003; copies of billings statements dated March 23, 2001, July 23, 2001, and August 23, 2001, from Qwest; copies of her earnings statements dated August 27, 2001, from Wendy's International, Inc.; a copy of a listing of appointments dated June 21, 2002 to May 28, 2003, from WIC; a copy of her Qwest billing statement dated March 23, 2001; copies of her medical identification cards dated December 1, 2001 to February 28, 2002; copies of her insurance bill and a vehicle buyer's order dated November 16, 2003; copies of two vehicle title application/registration certificates dated "2/31/2003" and April 17, 2003; copies of receipt notices from the Service dated November 5, 2001, November 8, 2001, September 26, 2002, and September 30, 2003; copies of her U.S. Individual Income Tax Return for the years 2000, 2001, 2002, and 2003; a copy of her Form W-2, Wage and Tax Statement, for the

years 2000, 2001, and 2003; a copy of a letter dated April 24, 2002, from the Clinica De Los Angeles Medical Group indicating that the applicant had been seen in that office on April 24, 2002; copies of the applicant's YMCA membership card and Evans Adult School student identification card valid until June 30, 2000; a copy of an envelope dated February 6, 1999, from Gigante Express; a copy of her Medi-Cal Identification card application dated April 24, 2002; a copy of a notice from Medi-Cal Programs dated July 1, 2002; copies of her Premier Blue Cross insurance card and her State of California Benefits Identification Card issued on May 1, 2002; and copies of medical release forms dated August 16, 2002.

The first issue in this proceeding is whether the applicant has established her photo identity and nationality. Along with her appeal, the applicant submits copies of her El Salvadoran passport and personal identification card. In addition, the record also contains a copy of the applicant's birth certificate; thus, the applicant has established her identity and her El Salvadoran nationality. Therefore, the applicant has overcome this portion of the director's objection.

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. A review of the evidence submitted by the applicant establishes the applicant had entered the United States prior to February 13, 2001, and that she has continuously resided in the United States since that time. The applicant has also established that she has been continuously physically present in the United States since March 9, 2001, to the date of filing her application. The applicant has also overcome this portion of the director's objection.

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

The record of proceedings 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, he or she was either in a valid immigration status, had an application pending for relief from removal, was a parolee, or was the spouse/child of an alien currently eligible to be a TPS registrant, and he or she had filed an application for late registration within 60 days of the expiration or termination of the conditions described in 8 C.F.R. § 244.2(f)(2).

On appeal, the applicant submits evidence to establish her continuous residence and continuous physical presence in the United States during the requisite time periods. However, 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 had failed to establish her eligibility for late registration will be affirmed.

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 this burden.

**ORDER:** The appeal is dismissed.