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U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
[EAC 04 018 51157]

Office: VERMONT SERVICE CENTER

Date: DEC 12 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, 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 denied the application because the applicant failed to establish she was eligible for late registration. The director also found that the applicant had failed to establish continuous physical presence in the United States since March 9, 2001.

On appeal, the applicant submits a statement and additional evidence

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 parole; 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. A subsequent extension of the TPS designation has been granted by the Secretary of the Department of Homeland Security, with validity until September 9, 2006, upon the applicant's re-registration during the requisite time period. The initial registration period for Salvadorans was from March 9, 2001 through September 9, 2002. The record reveals that the applicant filed her Form I-821, Application for Temporary Protected Status, with the Immigration and Naturalization Service, now Citizenship and Immigration Services (CIS), on October 23, 2003.

The burden of proof is upon the applicant to establish that he 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 burden of proof the applicant must provide supporting documentary evidence of eligibility apart from his 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 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 she fell within at least one of the provisions described in 8 C.F.R. § 244.2(f)(2) above.

On February 25, 2004, 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 qualifying continuous residence and continuous physical presence in the United States during the requisite periods. The applicant, in response, provided documentation relating to her residence and physical presence in the United States.

The director determined that the applicant had failed to establish she was eligible for late registration and denied the application on June 25, 2004.

On appeal, the applicant states that she would like to be a "legal alien in the United States."

The applicant submits evidence in an attempt to establish her qualifying continuous residence and continuous physical presence in the United States. However, this evidence does not mitigate the applicant's failure to file her Form I-821 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 had failed to establish her eligibility for late registration will be affirmed.

The second issue in this proceeding is whether the applicant has established continuous physical presence in the United States since March 9, 2001.

The applicant indicated on her Form I-821 that she entered the United States without inspection near Brownsville, Texas, on July 2, 1996. In support of her application, she submitted the following:

1. photocopies of Medallion Eligibility Cards indicating that the applicant was eligible for medical benefits beginning on: June 1, 2000; August 1, 2000; October 1, 2000; December 1, 2000; and, January 1, 2001;
2. a photocopy of her Virginia Identification Card issued on January 8, 2000; and,
3. a photocopy of the biographic page of her Salvadoran passport issued in Washington, D.C., on December 23, 1999.

As stated above, the applicant was requested on February 25, 2004, to submit evidence establishing her qualifying residence and physical presence in the United States. The applicant, in response, provided the following documentation:

4. a generic cash receipt dated May 4, 2000, for dental services from the Spanish Catholic Center in Washington, D.C.;
5. a letter dated March 16, 2004, from [REDACTED] stating that the applicant lived in his house located at [REDACTED] from May 10, 1999 to May 10, 2002;
6. a photocopy of a notice dated January 27, 1998, from the City of New York, Medical Assistance Program, Human Resources Administration, informing the applicant that her Medicaid application for full medical coverage had been accepted;
7. a photocopy of a letter dated September 22, 2000, from the Internal Revenue Service acknowledging receipt of the applicant's application for an individual taxpayer identification number;
8. a photocopy of a Certificate of Baptism indicating that the applicant's daughter, [REDACTED] was baptized at Immaculate Conception Church, Jamaica New York, on October 17, 1998; and,

9. a photocopy of a Medallion eligibility card indicating that the applicant was eligible for benefits as of September 1, 2000.

The director determined that the applicant had failed to submit sufficient evidence to establish continuous physical presence in the United States since March 9, 2001, and denied the application.

On appeal, the applicant repeats her claim to have lived in the United States since February 13, 2001. She submits the following evidence:

10. a photocopy of a Medallion eligibility card indicating that the applicant was eligible for benefits as of February 1, 2001; and,
11. a photocopy of a retail installment contract and security agreement indicating that the applicant purchased merchandise from Lexicon Marketing Corporation, headquartered in Los Angeles, California, on January 16, 2001.

The documents detailed in Nos. 1, 2, 3, 4, 6, 7, 8, 9, 10, and 11 all predate the requisite period to establish continuous physical presence in the United States. The applicant has submitted only one letter from Mr. [REDACTED] (No. 5 above) to establish her continuous physical presence in the United States. The applicant claims to have lived in the United States since July 2, 1996. It is reasonable to expect that she would have some contemporaneous evidence to corroborate Mr. [REDACTED] statement that the applicant lived in his home until May 10, 2002; however, no such evidence has been submitted.

The applicant has not submitted sufficient credible evidence to establish her continuous physical presence in the United States since March 9, 2001. She has, therefore, failed to establish that she has met the criteria described in 8 C.F.R. § 244.2(b). Consequently, the director's decision to deny the application for TPS on this ground will also 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.