

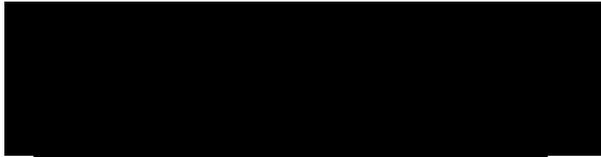


U.S. Citizenship
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Services

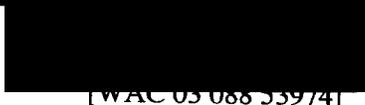
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FILE:



Office: CALIFORNIA SERVICE CENTER

Date: MAR 07 2005

[WAC 03 088 53974]

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, California 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 because the applicant failed to establish she was eligible for late registration.

On appeal, the applicant states that she believes that she qualifies for TPS and requests a 90-day extension in which to seek counsel and submit a brief. To date, no brief has been received. Therefore, the record will be considered complete.

It is noted that the record contains a Form G-28, Notice of Entry of Appearance by Attorney or Representative, submitted by [REDACTED] who identifies himself as "immigration practitioner" employed as an independent contractor for Liberty Immigration of Fairfield, California; however, neither Mr. [REDACTED] nor Liberty Immigration is authorized to represent aliens in proceedings before Citizenship and Immigration Services (CIS). Therefore, this decision will be provided 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 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 § 244.3;
- (e) Is not ineligible under § 244.4; and
- (f)
 - (1) Registers for Temporary Protected Status 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.

Persons applying for TPS offered to El Salvadorans must demonstrate continuous residence in the United States since February 13, 2001, and continuous physical presence since March 9, 2001. The initial registration period for Salvadorans was from March 9, 2001, through September 9, 2002. The record reveals that the applicant filed her initial application with the Immigration and Naturalization Service, now Citizenship and Immigration Services (CIS), on January 24, 2003.

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 or child of an alien currently eligible to be a TPS registrant, and 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).

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 December 21, 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 of identity and nationality and 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. The applicant, in response, provided evidence of her identity and nationality and evidence in an attempt to establish her qualifying continuous residence and continuous physical presence in the United States during the requisite time frames.

The director determined that the applicant had failed to establish she was eligible for late registration and denied the application on March 15, 2004.

The applicant indicated on the Form I-821, Application for Temporary Protected Status, that she first arrived in the United States on July 26, 2002. The record contains the applicant's Form I-94, Arrival/Departure Record,

indicating that she was admitted to the United States as a nonimmigrant B-2 visitor on July 26, 2002, with stay authorized to January 25, 2003. The applicant filed her Form I-821 on January 24, 2003.

The director found that the applicant had failed to establish that she qualified for late initial registration. The applicant appears to have established her eligibility for late registration. However, she is statutorily ineligible for TPS, since she did not enter the United States until July 26, 2002, and cannot establish continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States since March 9, 2002. Therefore, the application must be denied for these reasons.

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.