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U.S. Department of Homeland Security
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Washington, DC 20529



U.S. Citizenship
and Immigration
Services

DEPARTMENT OF HOMELAND SECURITY
DIVISION OF PERSONAL SERVICES

M



FILE: [REDACTED]
[WAC 03 052 51571]

Office: CALIFORNIA SERVICE CENTER Date:

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, California 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 initial registration. The director also found that the applicant had failed to establish continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States since March 9, 2001.

On appeal, the applicant submits 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 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 § 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.

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 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 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 application with the Immigration and Naturalization Service, now Citizenship and Immigration Services (CIS), on November 7, 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 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 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 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 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).

The director determined that the applicant had failed to establish she was eligible for late registration and denied the application on March 31, 2004.

On appeal, the applicant has not submitted a statement or any additional evidence to establish her eligibility for late registration.

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 determination that the applicant has failed to establish her eligibility for late initial registration will be affirmed.

The second issue in this proceeding is whether the applicant has submitted sufficient evidence to establish 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 submitted the following evidence with her application for TPS:

1. an affidavit dated September 6, 2002, from [REDACTED] attesting that she has known the applicant since January 10, 2001;
2. an affidavit dated September 6, 2002, from [REDACTED] stating that they have known the applicant since February 12, 2002.

The director determined that the applicant had failed to submit sufficient evidence to establish her qualifying continuous residence and continuous physical presence in the United States during the requisite time periods and denied the application.

On appeal, the applicant submits the following evidence:

3. her 2003 Internal Revenue Service (IRS) Form 1040, U.S. Individual Income Tax Return, reflecting an annual income of \$10,341, her 2003 IRS Form W-2, Wage and Tax Statement, from [REDACTED], in Los Angeles, California, reflecting an annual income of \$1012.03, and an ADP "2003 W-2 and Earnings Summary" reflecting an annual income of \$10,341.00;
4. her 2001 IRS Form 1040 reflecting an annual income of \$3,000;

5. her 2002 IRS Form 1040 reflecting an annual income of \$4,100;
6. a letter dated April 14, 2004, from [REDACTED] stating that they are the applicant's landlords and that the applicant resided at [REDACTED] North Las Vegas, Nevada, from January 1, 2001 to August 2002; and,
7. an affidavit from [REDACTED] dated April 10, 2004, stating that the applicant worked for her as a babysitter from January 10, 2001 to July 15, 2002.

The affidavit from [REDACTED] is not sufficient to establish the applicant's qualifying continuous residence and continuous physical presence in the United States during the requisite time periods because she does not specify the applicant's address(es) during the period of employment.

Further, the applicant's IRS Form 1040 reflects an annual income of \$10,341, but the IRS Form W-2 from [REDACTED] reflects an annual income of \$1012.03 in 2003. The applicant has not submitted other IRS Forms W-2 to reflect additional income from other employers in 2003, nor has she provided any explanation for the discrepancy in the total gross annual income reflected on her 2003 IRS Form 1040 and the total income reflected on her 2003 IRS Form W-2 from [REDACTED]. Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. Further, it is incumbent on the applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582. (Comm. 1988).

The applicant has not submitted IRS Forms W-2, pay statements, or any other documents to corroborate the income claimed on her IRS Forms 1040 for 2001 and 2002.

In view of the foregoing, it is concluded that the applicant has not submitted sufficient evidence 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 TPS on these grounds 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.