



U.S. Citizenship  
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FILE: [REDACTED]  
[WAC 05 222 73303]

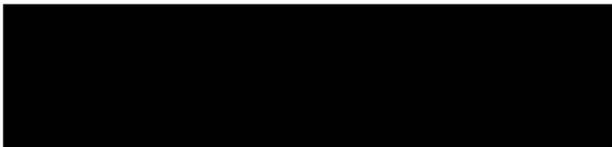
OFFICE: CALIFORNIA SERVICE CENTER

DATE: DEC 18 2006

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:



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, Chief  
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 had failed to submit sufficient evidence to show that she was eligible for late initial registration.

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 alien 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 § 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 condition 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 that they have continuously resided in the United States since February 13, 2001, and that they have been continuously physically present 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. Subsequent extensions of the TPS designation have been granted, with the latest extension valid until September 9, 2007, 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 shows that the applicant filed her initial application on May 10, 2005.

To qualify for late registration, the applicant must provide evidence that during the initial registration period from March 9, 2001 through September 9, 2002, she fell within the provisions described in 8 C.F.R. § 244.2(f)(2) (listed above).

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).

In a Notice of Intent to Deny dated February 5, 2006, 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 to establish nationality and identity, and evidence to establish continuous residence in the United States since February 13, 2001, and continuous physical presence from March 9, 2001, to the date of filing the application. In response, the applicant provided copies of a California Identification Card and a California Driver License as evidence of identity, and additional evidence to establish residence and physical presence in the United States during the requisite period.

The director determined that the applicant had failed to submit sufficient evidence to show that she was eligible for late registration and denied the application on May 9, 2006.

On appeal, the applicant asserts that she is clearly eligible for late TPS registration because she filed a Form I-589 application for political asylum in 1997, and that she has been granted employment authorization on the

basis of the political asylum application. She submits copies of her Employment Authorization Cards to support her claim. She also submits a copy of her El Salvadoran birth certificate and English translation to establish nationality.

The record of proceeding indicates that on April 11, 1995, the applicant's spouse, [REDACTED] file number [REDACTED] filed Form I-589, Request for Asylum in the United States. Mr. [REDACTED] requested to add his wife (the applicant) as a dependent on his asylum application. His request was granted on September 30, 1997. On September 20, 1999, the Los Angeles Asylum Office Director determined that Mr. [REDACTED] was not eligible for asylum because CIS records indicate that on January 10, 1999, Mr. [REDACTED] applied for admission into the United States by falsely representing himself as a citizen of the United States and presented a counterfeit permanent residence card for the purpose of entry. The Asylum director maintained that the "Settlement Agreement in *American Baptist Churches v. Thornburgh*, 760 F. Supp. 796 (N.D. Cal. 1991) (ABC), provides that class members apprehended at the time of entry after December 19, 1990, shall not be eligible for its benefits." The director, therefore, determined that based on the above facts, the applicant was ineligible for benefits under the ABC Settlement Agreement. Mr. [REDACTED] was placed in expedited removal proceedings and he was also advised that as a result, the application he filed to include his dependent (the applicant) had also been closed, and that if his dependent wishes to pursue a request for asylum in the United States, she must submit her own asylum application (Form I-589). There is no evidence in the record that the applicant filed an asylum application on her own behalf.

The record, as presently constituted, is devoid of any evidence to show that the applicant, in fact, has an asylum application pending as claimed. As noted above, the asylum application, filed by her spouse, was administratively closed on September 20, 1999.

The applicant has failed 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 decision to deny the TPS 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.