



U.S. Citizenship
and Immigration
Services

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FILE:



OFFICE: California Service Center

DATE: MAR 06 2006

[WAC 05 126 79637]

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.

Cindy N. Gomez
and got

Robert P. Wiemann, Director
Administrative Appeals Office

PUBLIC COPY

DISCUSSION: The application was denied by the Director, California Service Center. The application is now before the Administrative Appeals Office on appeal. The appeal will be sustained.

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's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS.

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

The applicant filed her initial TPS application on April 29, 2002, under CIS receipt number SRC 02 160 54220. On January 13, 2002, the director requested the applicant to submit evidence to establish her qualifying continuous residence and continuous physical presence in the United States. The director determined that the record did not contain a response from the applicant and therefore, denied the application on April 28, 2003, due to abandonment. A review of the record reflects that the applicant, on May 16, 2003, did respond to the director's request. The director subsequently approved the initial application on July 5, 2003, as reflected by the approval stamp on that application.

The applicant filed the Form I-821, Application for Temporary Protected Status, as a re-registration on February 3, 2005.

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 TPS only if such alien establishes that he or she:

- (a) Is a national of a 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 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.

If the applicant is filing an application as a re-registration, a previous grant of TPS must have been afforded the applicant, as only those individuals who are granted TPS must register annually. In addition, the applicant must continue to maintain the conditions of eligibility. 8 C.F.R. § 244.17.

On appeal, the applicant states that she had responded to the director's January 13, 2002 request for evidence regarding her initial TPS application. The applicant further states that "to the best of her knowledge" she was granted TPS in 2003.

The applicant, on appeal, also provides evidence that she had responded to the director's January 13, 2002, request for evidence as well as a copy of her Employment Authorization Card reflecting an eligibility code of "A12" and valid from September 25, 2003 to September 9, 2005. In addition, the applicant also provides copies of documentation she previously submitted in response to the director's January 13, 2002, request relating to her qualifying continuous residence and continuous physical presence in the United States.

A review of the record of proceedings and CIS' computer record systems reflects that the applicant's TPS status was approved on July 5, 2003. In addition, the copy of the applicant's Employment Authorization Card reflects an "A12" eligibility code. Given that the record fails to reflect any other ineligibility issues, the director's decision to deny the instant application will be withdrawn and the application will be approved.

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 met this burden.

ORDER: The appeal is sustained and the application is approved.