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**U.S. Citizenship  
and Immigration  
Services**

M1



FILE:



[EAC 04 227 50858]

Office: Vermont Service Center

Date: **MAR 27 2006**

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.

A handwritten signature in black ink, appearing to read "R. Wiemann".

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 applying for 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 her qualifying continuous residence and continuous physical presence in the United States during the requisite periods.

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

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 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 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 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.

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 application with Citizenship and Immigration Services (CIS), on August 2, 2004.

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 September 8, 2004, the applicant was requested to submit evidence to establish 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 continuous residence in the United States since February 13, 2001, and her continuous physical presence in the United States since March 9, 2001, to the date of filing her application. In response, the applicant submitted the following documentation: an affidavit dated September 13, 2004, from her sister, [REDACTED] who stated that the applicant entered the United States before February 13, 2001; an affidavit dated September 13, 2004, from [REDACTED] who stated that he has known the applicant since January 10, 2001, when she became a member of his church; and, copies of three envelopes bearing the name of the applicant and stamped dates of February 14, 2001, and February 29, 2001, and March 19, 2001.

The director determined that the applicant failed to establish she continuously resided in the United States since February 13, 2001, and had been continuously physically present in the United States from March 9, 2001, to the date of filing her application. The director also determined that the applicant had failed to establish she was eligible for late registration and denied the application on October 20, 2004.

On appeal, the applicant states that she submitted her TPS application late for reasons beyond her control. She also provides copies of the evidence she submitted in response to the director's September 8, 2004 request and two affidavits dated November 12, 2004, from her acquaintances, [REDACTED] stated that the applicant had entered the United States before February 13, 2001.

The first issue in this proceeding is whether the applicant is eligible for late registration.

The record of proceedings confirms that the applicant filed his 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. A review of the record of proceedings reflects that 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 decision to deny the application for TPS late registration will be affirmed.

The second issue in this proceeding is whether the applicant has established her continuous residence in the United States since February 13, 2001, or her continuous physical presence in the United States since March 9, 2001.

The letter from [REDACTED] has little evidentiary weight or probative value as it does not provide basic information that is expressly required by 8 C.F.R. § 244.9(a)(2)(v). Specifically, the pastor does not explain the origin of the information to which he attests. In addition, the copies of the envelopes although bear stamped dates, these envelopes do not appear to have been processed by the postal services of El Salvador or the United States. The statements provided by the affiants regarding the applicant's claimed continuous residence and continuous physical presence in the United States are not supported by any credible evidence. Affidavits from family members and acquaintances are not, by themselves, persuasive evidence of residence or physical presence.

It is also worth noting that the applicant submitted along with her TPS application a copy of her El Salvadoran personal identification card. A review of the card reflects that it was issued to her in El Salvador on December 14, 2001. Therefore, she could not have met the requirements that she had continuously resided in the United States since February 13, 2001, and had been continuously physically present since March 9, 2001. The applicant has, thereby, failed 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.

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 TPS 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.