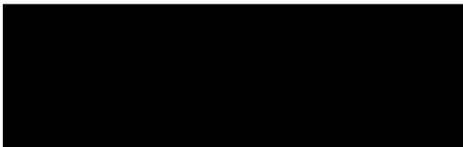


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FILE:



[WAC 05 225 90726]

Office: California Service Center

Date: **OCT 31 2006**

IN RE:

Applicant:



PETITION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF PETITIONER: 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.


for 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 claims to be 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 record reveals that the applicant filed a late initial TPS application on May 13, 2005, under CIS receipt number WAC 05 225 90726. The director denied that application on May 23, 2006, because the applicant failed to establish eligibility for late registration, her continuous residence and her continuous physical presence.

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 as 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 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.

Continuously physically present 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.

Continuously resided 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.

Brief, casual, and innocent absence 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 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 Citizenship and Immigration Services (CIS) on May 13, 2005.

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).

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/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).

On March 8, 2006, the applicant was provided the opportunity to submit evidence establishing her eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2). The director noted that the notice of intent was not returned as undeliverable. The director determined that the applicant failed to establish her continuous residence, continuous physical presence, and eligibility for late initial registration.

The record reveals that with her TPS application, the applicant submitted only an El Salvador birth certificate in Spanish, with a partial English translation. It is noted that on her TPS application, the applicant stated that she

entered the United States in 2001. However, the applicant did not specify an entry date, nor did the applicant provide any supporting documentation to establish her entry date.

On appeal, in an attempt to establish her continuous residence, her continuous physical presence, and eligibility for late initial registration, the applicant states that she is a native of Honduras who entered the United States prior to 1998, and that she applied for TPS late because of economic hardship. The applicant does not submit any additional evidence with her appeal.

It is noted that although the applicant stated in her TPS application that she is of El Salvadoran citizenship and nationality, and provided an El Salvador birth certificate with the TPS application, in her appeal the applicant states that she is a Honduran national. However, the applicant provides no evidence whatsoever to support her claimed Honduran citizenship, or to explain the discrepancy in her stated citizenship and nationalities. Also, although the applicant stated in her TPS application that she entered the United States in 2001, she states on appeal that she has been in the United States since 1998. The applicant has failed to submit any objective evidence to explain or justify the discrepancies in the entry dates in the record. It is the applicant's responsibility to address discrepancies in her statements. 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 application. It is incumbent upon 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 (BIA 1988). Therefore, the reliability of the remaining evidence offered by the applicant is suspect and it must be concluded that the applicant has failed to establish her continuous residence and continuous physical presence in the United States during the requisite period. Therefore, the application will also be denied for these reasons.

Furthermore, 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). Therefore, the applicant is not eligible for TPS. Consequently, the director's decision to deny the application for temporary protected status will be affirmed.

Beyond the decision of the director, the applicant has not submitted sufficient evidence to establish her nationality and identity. The applicant has furnished a copy of a birth certificate in Spanish, with a partial translation in English which omits information, such as the applicant's parent's nationality, contained in the Spanish version. Therefore, the applicant has not submitted a full English translation of her birth certificate. Also, the applicant has not submitted a national identity document from her country bearing a photograph and or/fingerprint. The birth certificate alone is insufficient to establish the applicant's identity and nationality under the provision of 8 C.F.R. § 244.9(a)(1). Therefore, the application must also be denied for these reasons.

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 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.