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U.S. Citizenship
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Office: NEBRASKA SERVICE CENTER

Date: **SEP 07 2006**

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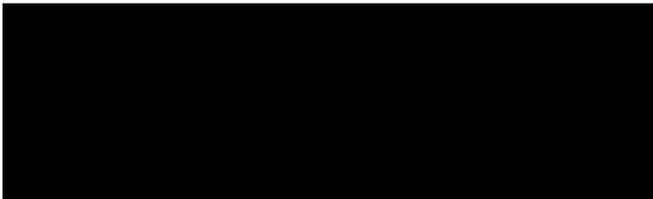
IN RE:

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:



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, Nebraska 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 determined that the applicant failed to establish she had been continuously physically present in the United States since March 9, 2001.

On appeal, counsel for the applicant states that the applicant did not receive the notice requesting her to appear for fingerprinting. The applicant also submits additional evidence in an attempt to establish continuous residence and continuous physical presence in the United States during the qualifying period.

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, 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.

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 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 granted until September 9, 2007, upon the applicant's re-registration during the requisite period.

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).

The record shows that the applicant filed this TPS application on September 9, 2003. It is noted that the applicant filed her initial TPS application on September 10, 2001. That application was denied as abandoned on March 13, 2001 because the applicant failed to appear for fingerprinting. On November 14, 2003, 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 applicant was also requested to submit a copy of her birth certificate or passport and to submit evidence establishing her date of entry and continuous residence in the United States since February 13, 2001, and her continuous physical presence in the United States from March 9, 2001, to the filing date of the application. In his decision, the director listed the evidence furnished by the applicant in response to his request for additional evidence. The applicant, in response, provided proof of her nationality and identity and evidence of her entry into the United States prior to February 13, 2001. The director concluded that the applicant had failed to establish her qualifying continuous physical presence in the United States during the requisite periods. Therefore, the director denied the application.

On appeal, counsel for the applicant states that the applicant did not receive the notice to appear for fingerprinting. However, the fingerprint notice was sent to the applicant's address of record. There is nothing in the record to indicate that the notice was returned as undeliverable by the U.S. Postal Service. The applicant also submits:

1. Copies of pay stubs from [REDACTED] dated November 8, 2002, December 6, 2002, December 20, 2002, January 25, 2003, February 8, 2003, February 15, 2003, February 28, 2003, March 7, 2003, March 14, 2003, March 21, 2003, March 28, 2003, April 4, 2003, April 11, 2003, May 9, 2003, May 16, 2003, May 23, 2003, June 7, 2003, June 14, 2003, June 28, 2003, July 19, 2003, July 26, 2003, August 8, 2003, August 22, 2003, August 29, 2003, September 5, 2003, September 12, 2003, September 26, 2003, October 3, 2003, November 28, 2003, December 5, 2003, December 13, 2003, December 19, 2003, December 26, 2003, January 16, 2003.
2. Copies of receipts from [REDACTED] dated May 21, November 21, 2003; Sure-Tel bills with due dates of June 21, 2002, August 29, 2003, October 21, 2002, June 21, 2003, September 21, 2003; bills from AT&T with a due date of August 20, 2003, September 20, 2003; Bank of America statements for periods ending March 17, 2003, May 7, 2003, October 8, 2003 and December 17, 2003; a bill from MCI dated May 8, 2002; and a bill from 10-10-345 dated August 29, 2003.
3. A copy of a notice of Credit Bureau Reporting dated May 31, 2002.
4. Copies of pay stubs from [REDACTED] dated March 29, 2002, April 5, 2002, April 12, 2002, May 24, 2002, July 12, 2002, October 11, 2002.
5. Copies of receipts from [REDACTED] dated August 29, 2003, November 10, 2003, and December 20, 2002, a United States Postal Services money order receipt dated October 3, 2002.
6. Copies of a letter from GEICO dated May 29, 2002.
7. Copies of bills from [REDACTED] dated January 17, 2002, January 31, 2002, February 4, 2002, February 22, 2002, July 2, 2002, October 31, 2002, March 2, 2003; letters from [REDACTED] dated May 22, 2002 and June 24, 2002; a statement from H [REDACTED] Corporation dated April 3, 2002.
8. Copies of 2002 Internal Revenue Services Form W-2, Wage and Tax Statement.

The documents submitted by the applicant cannot establish the applicant's continuous residence from February 13, 2001 and continuous physical presence from March 9, 2001 to September 10, 2001, the date she submitted her initial TPS application. One of the bills from [REDACTED] indicates a date of January 17, 2002, and is the earliest date presented, on appeal, as evidence of the applicant's presence in the United States.

The applicant has not submitted sufficient evidence to establish her qualifying continuous physical presence in the United States during the requisite period. She has, therefore, 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 temporary protected status 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.