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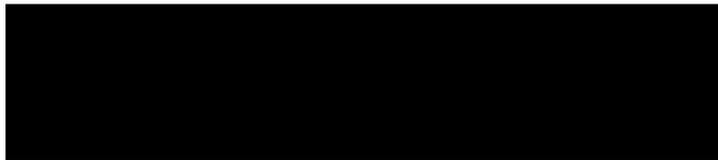
OFFICE: California Service Center

DATE:

APR 11 2007

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.

*Cindy M. Gomez*

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, California Service Center. It is now on appeal before the Administrative Appeals Office (AAO). The appeal will be dismissed.

The applicant is a 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 on the ground that the applicant had previously filed an application for TPS which was denied for failure to establish prima facie eligibility under section 244 of the Act, thereby making the subsequent TPS application unapprovable.

On appeal the applicant requests that her case be reviewed.

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 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.
- (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.

El Salvador nationals applying for TPS must demonstrate that they have continuously resided in the United States since February 13, 2001, and that they have been continuously physically present since March 9, 2001. The initial registration period for El Salvadorans was from March 9, 2001, through September 9, 2002. 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 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. *See* 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. *See* 8 C.F.R. § 244.9(b).

The applicant, who claims to have entered the United States without inspection on May 2, 1994, filed her initial Form I-821, Application for Temporary Protected Status [EAC 01 147 53064], on March 15, 2001. The service center issued a request for evidence on July 23, 2001, asking the applicant to submit documentary evidence that she had resided in the United States since February 13, 2001, and that she had been physically present in the United States from March 9, 2001, to the date her application was filed. After the applicant failed to respond to the request for evidence, the director denied the application on January 7, 2002, on the ground of abandonment, citing the regulation at 8 C.F.R. § 103.2(b)(13). The applicant was advised that a denial due to abandonment could not be appealed, but that she could file a motion to reopen under certain conditions. No such motion was filed by the applicant.

The applicant filed her current TPS application on November 28, 2005. The director denied the application on April 6, 2006, noting that the applicant had previously been denied TPS and stating that “[b]ecause the applicant has not established *prima facie* eligibility under section 244, the subsequent . . . application for [TPS] shall be denied.” The applicant filed a timely appeal.

A review of the record shows that between September 1, 2000 – the effective date of a KidCare Eligibility Card issued to the applicant by the State of New Jersey, Department of Human Services – and March 15, 2001 – the date the applicant’s initial TPS application was filed – the only evidence of the applicant’s residence and physical presence in the United States is a letter from an acquaintance. Letters from acquaintances are not, by themselves, persuasive evidence of residence or physical presence in the United States. None of the types of documentation enumerated in the regulation at 8 C.F.R. § 244.9(a)(2) has been submitted for the time period of September 1,

2000 to March 15, 2001. The AAO determines that the documentation of record is insufficient to establish that the applicant has been continuously physically present in the United States since March 9, 2001, and continuously resident in the United States since February 13, 2001, as required for TPS applicants from El Salvador under 8 C.F.R. § 244.2(b) and (c). Accordingly, the director's decision to deny the application will be affirmed on those grounds.

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 that burden.

**ORDER:** The appeal is dismissed.