



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

MI

[REDACTED]

FILE:

[REDACTED]

OFFICE: CALIFORNIA SERVICE CENTER

DATE: APR 23 2007

[WAC 06 025 70218]

IN RE:

Applicant:

[REDACTED]

APPLICATION:

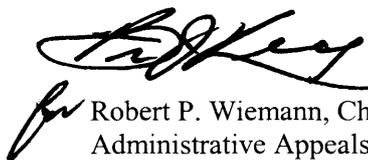
Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT:

[REDACTED]

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, Chief
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 summarily 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 denied the application because records indicate that the applicant had not maintained continuous residence in the United States since February 13, 2001, or continuous physical presence since March 9, 2001.

Neither counsel nor the applicant makes any statement on appeal. While counsel indicates that a brief and/or evidence will be furnished within 30 days, to date, no additional statement or evidence has been provided.

8 C.F.R. § 103.3(a)(1)(v) states, in pertinent part:

Summary dismissal. An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal.

The applicant has failed to identify specifically any erroneous conclusion of law or statement of fact for the appeal. Nor did the applicant address or submit any evidence, on appeal, to establish eligibility for TPS. Accordingly, the appeal will be summarily dismissed.

The record of proceeding contains Form I-213, Record of Deportable/Inadmissible Alien, issued on February 7, 2003, indicating that the applicant was encountered by the United States Border Patrol shortly after entering the United States without inspection near Hidalgo, Texas. She admitted at that time that she departed from El Salvador on or about December 9, 2002, and was helped by an unknown male to enter illegally into Guatemala; she then made her way to Mexico, arriving on or about December 25, 2002. She continued her travel through Mexico until she arrived in Reynosa, Mexico, where she crossed the Rio Grande River, entering the United States illegally on February 7, 2003. In removal proceedings held on July 3, 2003, the applicant failed to appear; therefore, the Immigration Judge (IJ) ordered the applicant removed to El Salvador *in absentia*. Based on a motion to reopen filed by the applicant's counsel, the IJ reopened removal proceedings on January 13, 2004. On November 3, 2005, the IJ administratively closed removal proceedings based on the applicant's filing of the TPS application.

As stipulated in section 244(c), the Attorney General designated the dates required to establish continuous residence in the United States as of February 13, 2001, and continuous physical presence since March 9, 2001. The record indicates that the applicant was not present in the United States during this period. Therefore, she could not have met the criteria for continuous residence and continuous physical presence described in 8 C.F.R. § 244.2(b) and (c). Consequently, the director's decision to deny the TPS application on these grounds will be affirmed.

Beyond the decision of the director, it is noted that the applicant filed her TPS application on October 25, 2005, after the initial registration period for El Salvadorans (from March 9, 2001 to September 9, 2002) had closed. As evidence of eligibility for late initial registration, the record contains a copy of the applicant's marriage certificate indicating that on September 24, 2004, the applicant and [REDACTED] were married in San Francisco, California. Also contained in the record is a copy of the Employment Authorization Card issued to [REDACTED] on February 4, 2004, under category A12.

While regulations may allow spouses of aliens who are TPS-eligible to file their applications after the initial registration period had closed, these regulations do not relax the requirements for eligibility for TPS. To be eligible for late registration under the provisions of 8 C.F.R. § 244.2(f)(2)(iv), the qualifying relationship must have existed during the initial registration period. The applicant, in this case, was not married to [REDACTED] during the initial registration period as required by 8 C.F.R. § 244.2(f)(2). Therefore, she is not eligible for late registration. Additionally, the applicant was not present in the United States during the period required to establish eligibility for TPS. Accordingly, the applicant could not have met any of the criteria for late registration described in 8 C.F.R. § 244.2(f)(2).

As always in these proceedings, the burden of proof rests solely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361.

ORDER: The appeal is summarily dismissed.