



U.S. Citizenship  
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FILE: [REDACTED] OFFICE: California Service Center DATE: **AUG 31 2007**  
[WAC 05 218 73026]

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: 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.

  
Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, California Service Center (CSC). 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 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 on the grounds that the applicant failed to establish that she met the continuous residence and continuous physical presence requirements for TPS applicants from El Salvador.

On appeal the applicant submits copies of previously submitted documentation.

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 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.

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.

El Salvadoran nationals applying for TPS must demonstrate continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States since March 9, 2001. The initial registration period for El Salvadorans was from March 9, 2001 through September 9, 2002. The record shows that the applicant filed her initial Form I-821, Application for Temporary Protected Status, on March 7, 2005 – two and one-half years after the close of the initial registration period.

To qualify for late registration, the applicant must provide evidence that during the initial registration period she met at least one of the conditions described in 8 C.F.R. § 244.2(f)(2) above.

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). *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).

In a Notice of Intent to Deny (NOID) dated August 29, 2006, the CSC requested the applicant – who claims to have entered the United States without inspection on December 1, 2000, and asserts her eligibility for late TPS registration through her parents, [REDACTED] and [REDACTED] to submit evidence that she was eligible for late registration and met the continuous residence and continuous physical presence requirements for TPS applicants from El Salvador, as well as evidence of her date of entry into the United States and her nationality/identity. The applicant responded on September 19, 2006, with various documents including photocopies of her El Salvadoran passport and birth certificate, showing that she was born in El Salvador on September 11, 1993, as well as school and medical records in the United States dating from August 2004 to May 2006.

On October 2, 2006, the director denied the application on the grounds that the applicant failed to establish that she was a continuous resident of the United States and continuously physically present in the United States from the requisite dates for TPS residents from El Salvador.

The applicant filed a timely appeal, and resubmits copies of materials already in the record. No new documentation has been submitted.

Thus, there is still no evidence in the record that the applicant has been continuously physically present in the United States since March 9, 2001, and a continuous resident of the United States since February 13, 2001, as required for all TPS applicants from El Salvador under 8 C.F.R. § 244.2(b) and (c), including children applying for TPS through their parent(s). None of the school and medical records, previously submitted, indicate that the applicant was living in the United States before August 2004. Furthermore, the applicant's mother expressly stated in her initial TPS application, filed on January 22, 2002, as well as in her subsequent re-registration application, filed on September 15, 2003, that the applicant was residing in El Salvador at those times. Thus, the record clearly shows that the applicant has not been continuously physically present in the United States since March 9, 2001, and a continuous resident of the United States since February 13, 2001. The director's denial of the application on those grounds will therefore 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 that burden.

**ORDER:** The appeal is dismissed.