



U.S. Citizenship  
and Immigration  
Services

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FILE:

[REDACTED]  
[EAC 07 028 51651]

Office: VERMONT SERVICE CENTER

Date: DEC 07 2007

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 Director, Vermont Service Center (VSC), denied the application. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of El Salvador who seeks 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 the applicant failed to establish her qualifying continuous residence and continuous physical presence in the United States.

On appeal, the applicant asserts that she is eligible for late registration as the child of a TPS registrant. She submits previously submitted documents.

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.

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.

Persons applying for TPS offered to 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. Subsequent extensions of the TPS designation have been granted, with the latest extension valid until March 9, 2009, upon the applicant's re-registration during the requisite time period.

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

The burden of proof is on 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 reflects that the applicant filed her initial TPS application on August 20, 2004 – almost two years after the close of the initial registration period for Salvadorans. The applicant indicated on her application that she entered the United States, without inspection, on December 3, 2002. In support of her application, the applicant submitted documentation indicating that she was born on February 16, 1999, to [REDACTED] a TPS registrant with alien registration number [REDACTED].

On September 24, 2004, the director requested that the applicant submit evidence establishing her qualifying continuous residence and continuous physical presence in the United States. In response, the applicant did not submit additional documentation, but simply a statement, asserting that she did not have to provide such documentation because she derived her status from her mother. On October 25, 2004, the director found that the applicant was eligible for late registration as the child of an alien eligible to be a TPS registrant during the initial registration period, but denied the application, finding that she had not submitted evidence to establish her qualifying continuous residence and continuous physical presence. The applicant did not appeal the director's decision.

On November 8, 2006, the applicant filed the current application. On June 5, 2007, the director denied the application because the applicant failed to establish her qualifying continuous residence and continuous physical presence.

On appeal, the applicant reasserts her eligibility as the child of a TPS registrant.

The applicant is the child of an alien who was eligible to be a TPS registrant during the initial registration period and is, therefore, eligible to file a late application for TPS under 8 C.F.R. § 244.2(f)(2)(iv). The application, however, cannot be approved. A late-filing child of a TPS-eligible parent must meet the same continuous residence and continuous physical presence requirements as all other TPS applicants. The documents submitted, including the applicant's report cards and her mother's tax returns, only establish residence and physical presence from 2003 to the present. The earliest evidence of the applicant's presence in the United States is her 9<sup>th</sup> grade report card from Patterson High School in Baltimore, Maryland, indicating enrollment starting on February 2, 2003. Furthermore, the applicant indicates that she did not enter the United States until October 3, 2002. Her passport was issued on January 21, 2002, in San Miguel El Salvador. Since the applicant did not enter the United States until October 3, 2002, she cannot satisfy the continuous residence and continuous physical presence requirements of 8 C.F.R. § 244.2(b) and (c). The director's decision to deny the application for TPS on these grounds will be affirmed.

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 this burden.

**ORDER:** The appeal is dismissed.