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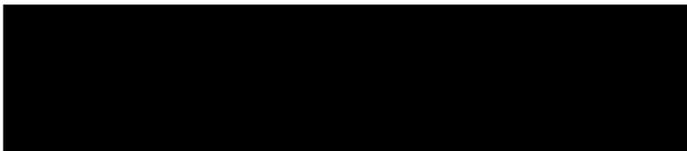
DATE: **DEC 31 2007**

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.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Vermont Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The applicant claims to be 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 because the applicant failed to establish she was eligible for late registration. The director additionally denied the application because the applicant failed to establish that she is a national of a foreign state designated by the Attorney General and eligible for TPS under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254, and failed to provide evidence of her identity. The director also denied the application because the applicant failed to establish she had continuously resided in the United States since February 13, 2001, and been continuously physically present in the United States since March 9, 2001.

On appeal, the applicant claims that she timely submitted a change of address, and she does not know why it was not entered into Citizenship and Immigration Services (CIS) records.

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.

Persons applying for TPS offered to El 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. The record reveals that the applicant filed her initial application with Citizenship and Immigration Services (CIS) on September 6, 2006.

To qualify for late registration, the applicant must provide evidence that during the initial registration period she fell within at least one of the provisions 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 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 first issue in this proceeding is whether the applicant is eligible for late registration.

On January 18, 2007, the applicant was requested 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 evidence establishing that she was a citizen or national of El Salvador, a copy of her identity document, and evidence of her continuous physical presence in the United States from February 13, 2001, to the date of filing.

In her February 9, 2007, letter accompanying the applicant's response, counsel stated that the applicant "asserts that she is eligible for late registration based on her asylum application," and that she was not properly served with notice of the closure of her asylum case. Counsel asserted that the applicant "properly filed Form AR-11" notifying CIS of her new address, and that CIS failed to note this change of address in the applicant's record. Counsel further asserted that because of this failure, the applicant did not receive notice that her case had been referred to an immigration judge, which resulted in an in absentia order of removal.

The applicant submitted a copy of a Form AR-11, which she ostensibly signed on April 10, 2004. However, nothing on the form or in the record indicates that the applicant submitted the Form AR-11 to CIS.

The director determined that the applicant had failed to establish she was eligible for late registration and denied the application on April 16, 2007. On appeal, the applicant renews her claim that she timely submitted a change of address, and that CIS failed to change its records.

As discussed above, nothing in CIS records or on the documentation submitted by the applicant indicates that the applicant filed a change of address with CIS.

The record reveals that the applicant's husband filed a Form I-589, Application for Asylum and Withholding of Deportation, on June 26, 1995. The Form I-589 indicated that the applicant and her husband were married in 1994. The record also contains a February 23, 2005 letter to the applicant's husband, informing him that his request for asylum was denied for abandonment as of January 23, 2005, because he failed to appear for an interview and failed to provide good cause for that failure. The record contains a copy of a Form I-862, Notice to Appear, dated September 17, 2005, ordering the applicant to appear on March 9, 2006. Nothing in the record indicates that the U.S. Postal Service returned either of these documents as undeliverable. On March 9, 2006, the immigration judge conducted the hearing in absentia and ordered the applicant removed to El Salvador. The record does not reflect that the applicant or her husband has moved to reopen either the decision denying them asylum or the immigration judge's order of removal.

The record, therefore, reflects that, in order to qualify for late registration based on her husband's asylum request under which she was a beneficiary, the applicant was required to file her TPS application no later than March 24, 2006. The applicant filed her application on September 6, 2006.

The applicant has submitted evidence in an attempt to establish her qualifying residence and physical presence in the United States, her nationality and identity. However, this evidence does not mitigate the applicant's failure to file her Form I-821, Application for Temporary Protected Status, within the initial registration period. The applicant has not submitted any evidence to establish that she has met any of the criteria for late registration described in 8 C.F.R. § 244.2(f)(2). Consequently, the director's conclusion that the applicant had failed to establish her eligibility for late registration will be affirmed.

The second issue is whether the applicant has established her identity and qualifying nationality. The regulation at 8 C.F.R. § 244.9(a)(1) provides that "[e]ach application must be accompanied by evidence of the applicant's identity and nationality, if available." The regulation further provides:

Acceptable evidence in descending order of preference may consist of:

- (i) Passport;
- (ii) Birth certificate accompanied by photo identification; and/or
- (iii) Any national identity document from the alien's country of origin bearing photo and/or fingerprint.

As stated above, the applicant was requested on January 18, 2007, to submit evidence establishing her identity and that she is a national of a foreign state designated by the Attorney General and eligible for TPS. The applicant submitted no documentation addressing this issue in her response.

On appeal, the applicant submits a copy of her birth certificate with a partial translation. The document does not comply with the provisions of 8 C.F.R. § 103.2(b)(3), which requires that documents submitted in a foreign language must be accompanied by a full English translation. The applicant failed to submit any photographic identification issued by her native country. Accordingly, the applicant has failed to submit evidence to establish her identity and nationality as required by the regulation. Consequently, the director's decision to deny the application for TPS on these grounds will also be affirmed.

The final issue in this proceeding is whether the applicant has established her continuous residence in the United States since February 13, 2001, or her continuous physical presence in the United States since March 9, 2001.

As discussed above, the applicant was requested on January 18, 2007, to submit evidence establishing her qualifying continuous residence and continuous physical presence in the United States. The applicant submitted no documentation regarding this issue in her response. The director determined that the applicant had failed to submit sufficient evidence to establish her eligibility for TPS.

On appeal, the applicant submits the following documentation:

1. A copy of a December 8, 2005, Social Security Earnings Statement indicating that wages were reported for the applicant for the years 1997 through 2004.
2. Copies of the applicant's Employment Authorization Card for the periods June 1998 to June 1999 and June 2003 to June 2004.
3. A copy of a November 21, 1998, State of Georgia birth certificate for the applicant's daughter.
4. A copy of a July 28, 2003, certificate of immunization from the Smyrna Community Health Center, showing immunizations for the applicant's daughter beginning in November 1998.
5. A copy of an April 8, 1999, money order receipt payable to the legacy Immigration and Naturalization Services (INS).
6. Copies of the applicant's earnings statements from Pappas Restaurants for periods in 2000 through 2005.
7. A copy of a November 26, 2001, agreement for an apartment transfer and a copy of a money order for the transfer fee.

8. Copies of Forms W-2, Wage and Tax Statement, for the years 2002, 2003 and 2005 issued to the applicant by Pappas Restaurants, Inc., and a copy of a 2005 Form W-2 from Chick-fil-A.
9. A copy of a September 16, 2002, purchase agreement from Royal Prestige showing the applicant's address in Smyrna, Georgia, and a copy of a July 2004 bill from the company.
10. A copy of the applicant's February 21, 2003, final decree of divorce from the Superior Court of Cobb County, Georgia, and a copy of a March 4, 2003, request by the applicant for a name change.
11. Copies of phone bills for May and June 2003, March through May 2004, and February and March 2007.
12. Copies of March and September 2004 and January through April 2007 utility bills.
13. A copy of a customer charge/credit summary from Children's Network for the year 2004.
14. Copies of a May through July 2004 and March 20, 2007, television satellite bill.
15. A copy of a February 1, 2005, and January 14, 2007, bill from Wellstar Cobb Hospital in Atlanta.
16. A copy of an August 15, 2005, statement from Bally Total Fitness.
17. Copies of monthly bank statements for November 2005, February and March 2007.
18. A copy of a report card for the applicant's daughter for the school year 2005-2006.
19. A copy of the applicant's pay stub from The Cheesecake Factory for the period ending December 26, 2006. The pay stub indicates that the applicant was hired on October 13, 2006.
20. A copy of a January 18, 2007, letter from a credit card company.
21. Copies of February and March 2007 statements from Nissan Motor Acceptance Corporation.
22. A copy of credit card bills for March and April 2007.

The applicant also submitted copies of federal and state tax return documents; however, there is no evidence that these returns were ever filed with the appropriate tax agencies. Additionally, the applicant also submitted copies of various correspondence between her and CIS.

We find that the applicant has submitted sufficient evidence on appeal to establish her continuous residence and physical present in the United States since February 13, 2001, and March 9, 2001, respectively. Nonetheless, the applicant has failed to establish that she is eligible for late registration, nor has she provided evidence of her identity or qualifying nationality.

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 this burden.

ORDER: The appeal is dismissed.