



U.S. Citizenship  
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Services

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FILE:



Office: CALIFORNIA SERVICE CENTER

Date:

**JUL 26 2007**

[WAC 05 208 84843]

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: 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.

A handwritten signature in cursive script, appearing to read "Robert P. Wiemann".

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 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 because the applicant failed to establish her eligibility for TPS late registration. The director also determined that the applicant failed to establish her qualifying continuous residence and continuous physical presence in the United States.

On appeal, the applicant submits some evidence in an attempt to establish her eligibility for TPS.

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, 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 El Salvadorans must demonstrate continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States since March 9, 2001. On July 9, 2002, the Attorney General announced an extension of the TPS designation until September 9, 2003. Subsequent extensions of the TPS designation have been granted by the Secretary of the Department of Homeland Security, with validity until September 9, 2007, upon the applicant's re-registration during the requisite time period.

The initial registration period for Salvadorans was from March 9, 2001, through September 9, 2002. The record reveals that the applicant filed the instant application with Citizenship and Immigration Services (CIS) on April 26, 2005.

To qualify for late registration, the applicant must provide evidence that during the initial registration period he or 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).

On June 14, 2006, the director requested the applicant to submit evidence to establish her eligibility for TPS late registration. The director also requested the applicant to submit evidence to establish her continuous residence since February 13, 2001, and her continuous physical presence in the United States since March 9, 2001.

In response, the applicant submitted copies of the following evidence: a letter dated November 19, 2005, from CIS regarding her inquiry; a receipt notice dated May 3, 2005, and November 12, 2005; money order receipts, some with illegible dates; an ASC Appointment Letter dated January 30, 2006; a rejection notice dated January 20, 2005; the fronts of two envelopes bearing postmark dates of January 11, 2005 and February 11, 2005; and a Notice of Intent to Deny dated June 14, 2006.

The director determined that the applicant did not establish her qualifying continuous residence and continuous physical presence in the United States, as well as her eligibility for TPS late registration. Therefore, the director denied the application on August 4, 2006.

On appeal, the applicant asserts her eligibility for TPS and submits the following evidence in an attempt to establish her claim: translation of her El Salvadoran birth certificate and personal identification card; a receipt from the Neighborhood Health Clinic dated May 24, 2006; copies of her lease agreement from the period January 15, 2005 to January 31, 2006; an unsigned letter from [REDACTED] stating that she watched the applicant's daughter; a copy of a certificate of birth from St. Joseph Hospital in Fort Wayne, Indiana indicating that the applicant's daughter was born on January 30, 2002; copies of the biographical page of her passport and school identification card from Universidad Technologica de El Salvador; a copy of her daughter's Certificate of Birth; copies of her Forms W-2, Wage and Tax Statements, for the years: 2002, 2003 and 2004; a money transfer receipt dated January 14, 2005; money order receipts dated August 2, 2005, April 29, 2006, June 3, 2006, and July 29, 2006; Verizon billing statements dated October 10, 2005, and July 10, 2006; one hand-written receipt dated August 1, 2005; a statement from Neighborhood Clinics dated July 5, 2006; and four utility bills dated August 8, 2005, November 4, 2005, December 7, 2005, and August 9, 2006.

The first issue in this proceeding is whether the applicant has established her eligibility for TPS late registration.

A review of the record reflects that 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 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, to the date of filing her application.

The applicant submits, on appeal, documentation that all post-dates the beginning of the requisite time periods for continuous residence and continuous physical presence in the United States. The earliest date is January 11, 2005. The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. 8 C.F.R. § 244.9(b). It is determined that the documentation submitted by the applicant is not sufficient to establish that she satisfies the continuous residence and continuous physical presence requirements described in 8 C.F.R. §§ 244.2(b) and (c). Consequently, the director's decision to deny the application on these grounds will also 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 this burden.

**ORDER:** The appeal is dismissed.