



U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
[EAC 05 196 70043]

Office: VERMONT SERVICE CENTER

Date: JUL 27 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 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 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.

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.

The initial registration period for Salvadorans was from March 9, 2001, through September 9, 2002. The record reveals that the applicant filed the current application with Citizenship and Immigration Services (CIS) on April 14, 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 6, 2006, the director requested the applicant to submit evidence to establish her eligibility for TPS late registration. In response, the applicant submitted the following evidence: an affidavit dated June 23, 2006, from [REDACTED] stating that he has known the applicant since November 2000, and that she has resided in the United States since March 24, 2000; an affidavit from [REDACTED] stating that he has known the applicant since July 2002, and that the applicant has resided in the United States since March 24, 2000; a copy of a Ria money transfer receipt dated August 30, 2000; copies of several hand-written receipts dated January 26, 2001, February 15, 2001, March 7, 2001, March 15, 2001, and April 15, 2001; a copy of a letter dated September 9, 2002, from [REDACTED] stating that the applicant rented a room from March 24, 2000; and a church from [REDACTED] who stated that the applicant began attending his church in 2002.

The director determined that the applicant did not establish her eligibility for TPS late registration. Therefore, the director denied the application on August 30, 2006.

On appeal, the applicant claims that she first applied for TPS around the year 2001, and that she lost the money orders associated with this filing on September 9, 2002. In addition, the applicant states that she has resided in the United States since 2000, and that she has sent all the documents in support of her claim.

Along with her appeal, the applicant submits the following evidence in an attempt to establish her claim: copies of the previously submitted documentation; an affidavit dated September 12, 2006, from [REDACTED] stating that the applicant had been a student since November 2002; copies of several money orders dated from September 17, 2002 to August 21, 2006; copies of her El Salvadoran passport and personal identification card; a copy of her Arkansas identification; a copy of an achievement award dated May 20, 2006; a copy of a DBI Tenprinter Applicant Worksheet dated November 11, 2002; a copy of an inquiry regarding her work authorization dated April 28, 2003; copies of several notices from the CIS; and a copy of her fingerprint appointment notice dated April 28, 2006.

The applicant claims on appeal that she had applied for TPS in 2001; however, she has failed to provide any evidence to substantiate her claim. A review of the record shows that her initial application for TPS [SRC 03 023 54926] was received after the initial registration period on September 23, 2002, and that application was denied on July 8, 2003. Furthermore, the record reveals that the applicant filed a subsequent TPS application [SRC 04 023 53218] on October 30, 2003, which was denied on June 21, 2004.

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.

Beyond the decision of the director, it is noted that the applicant has provided insufficient evidence to establish his qualifying continuous physical presence and his continuous residence in the United States during the requisite time periods. 8 C.F.R. § 244.2(b) and (c). Therefore, the application must also be denied for these reasons.

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.