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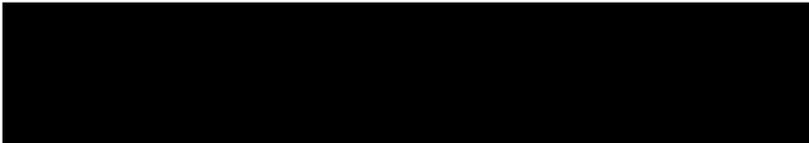
DATE: JUN 18 2007

[consolidated herein]

[EAC 05 020 50404]

IN RE:

Applicant:



APPLICATION:

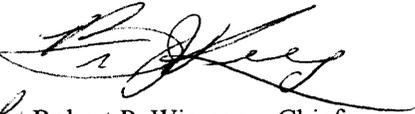
Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

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.


for 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 native and 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 had failed to establish that she was eligible for late registration, and that she had been continuously physically present in the United States from March 9, 2001, to the date of filing the application.

On appeal, the applicant submits a statement and additional evidence.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an alien who is a national of a foreign state 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 § 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 condition described in paragraph (f)(2) of this section.

The term *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 term *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.

Persons applying for TPS offered to El Salvadorans must demonstrate that they have continuously resided in the United States since February 13, 2001, and that they have been continuously physically present 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, with the latest extension valid until September 9, 2007, upon the applicant's re-registration during the requisite time period.

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 application on September 30, 2004.

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). 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.

The record of proceeding confirms that the applicant filed her application after the initial registration period had closed. To qualify for late registration, the applicant must provide evidence that during the initial registration period from March 9, 2001 through September 9, 2002, she fell within the provisions described in 8 C.F.R. § 244.2(f)(2) (listed above).

On February 22, 2005, 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 director determined that the applicant had failed to respond to his request for additional evidence and denied the application on April 11, 2005.

On appeal, the applicant asserts that she entered the United States on July 28, 2000, and that her father filed a request for asylum and listed her as his dependent. She submits a copy of a letter, addressed to [REDACTED] from the Arlington Asylum Office dated May 17, 2001, indicating: "As requested, dependent [REDACTED] added to pending asylum application."

The record of proceeding contains a copy of Form I-589, Request for Asylum in the United States, filed by the applicant's father [REDACTED] on November 1, 1990. The asylum application included the applicant's name, but shows that the applicant was residing in El Salvador at that time. On

February 14, 2001, ██████████ requested that his daughter (the applicant) be included in his asylum application as his dependent. CIS records indicate that Form I-881, Application for Suspension of Deportation or Special Rule Cancellation of Removal (pursuant to section 203 of Public Law 105-100 (NACARA)), filed by ██████████ was approved on August 20, 2003, in Washington, DC, and he was granted adjustment of status to lawful permanent resident (LPR) under the classification of Z15. Also on August 20, 2003, ██████████ withdrew his application for asylum.

Regulations at 8 C.F.R. § 244.2(f)(2)(iv) simply allow children of aliens who are TPS-eligible to file applications after the initial registration period had closed; however, these regulations do not relax the requirements for eligibility for TPS. Firstly, the applicant's father was not a TPS registrant; secondly, her father's asylum application in which the applicant was a derivative, was withdrawn on August 20, 2003. While 8 C.F.R. § 244.2(g) allows the applicant a 60-day period immediately following the expiration or termination of condition, in this case, after the withdrawal of the asylum application, to file a TPS application for late registration described in 8 C.F.R. § 244.2(f)(2)(ii), the applicant did not file her TPS application until September 30, 2004.

Accordingly, the applicant has failed 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 decision to deny the TPS application on this ground 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, and continuous physical presence from March 9, 2001, to the date of filing the TPS application.

In a notice of intent to deny dated February 22, 2005, the applicant was requested to submit additional evidence establishing her qualifying continuous residence and continuous physical presence in the United States. The applicant failed to respond; therefore, the director denied the application on April 11, 2005.

On appeal, the applicant asserts that since the time of her entry on July 28, 2000, she has maintained a continuous physical presence in the United States. She submits copies of her school records, immunization records, children's birth certificates, hospital records, and postmarked envelopes, dated from September 2000 through February 2004.

The evidence furnished by the applicant on appeal, in conjunction with other evidence included in the record of proceeding, establishes that the applicant satisfies the continuous residence and continuous physical presence requirements described in 8 C.F.R. § 244.2(b) and (c). Therefore, the applicant has overcome these findings of the director.

However, the applicant remains ineligible for TPS because she has not established eligibility for late registration described in 8 C.F.R. § 244.2(f)(2). Consequently, the director's decision to deny the application will be affirmed.

An alien applying for temporary protected status 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.