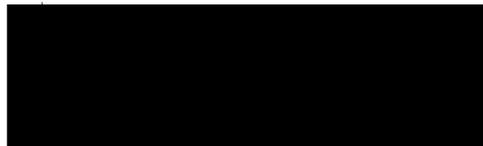




U.S. Citizenship
and Immigration
Services

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prevent clearly unwarranted
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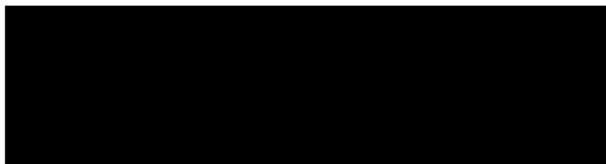
OFFICE: CALIFORNIA SERVICE CENTER

DATE: MAR 05 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:



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, California 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 respond to a request to submit evidence to establish: (1) that she was eligible for late registration; (2) nationality and identity; and (3) that she had continuously resided in the United States since February 13, 2001, and had been continuously physically present since March 9, 2001.

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 May 17, 2005.

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).

In a Notice of Intent to Deny (NOID) dated February 5, 2006, 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 May 2, 2006.

It is noted that counsel did respond to the director's NOID; however, the applicant's response was received at the California Service Center on May 2, 2006, the date the application was denied. Counsel submitted a statement from the applicant, dated April 10, 2006, in which she stated that as of the death of her mother in 1993, with respect to her immigration status, she did not know the correct procedures to follow to obtain legal status in the United States, and that there were "people" who told her there was nothing that could be done, and the truth was that she was afraid as she was very young and was alone in this country without anyone she could turn to. She further stated that she now realized she was wrong and asked for forgiveness and for

reconsideration because she has lived in the United States since 1982 when she arrived here with her mother, and that she is currently living by herself with her U.S. citizen daughter, and that she has been working for the past 15 years.

The record of proceeding contains Form I-817, Application for Voluntary Departure Under the Family Unity Program, filed by the applicant on July 24, 1992. The application indicates that the applicant arrived in the United States in May 1983, that she is the unmarried child of a legalized alien, and that she was applying for initial voluntary departure under the Family Unity Program. That application was approved on October 12, 1992, and an Employment Authorization Document (EAD) was issued, pursuant to 8 C.F.R. § 274a.12(a)(13), valid from July 12, 1993 until October 11, 1994. It is noted that the applicant stated that her mother, the principal alien, passed away in 1993.

On appeal, the applicant requests reconsideration and resubmits a copy of her statement dated April 10, 2006, detailed above.

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 nationality and identity.

In a Notice of Intent to Deny dated February 5, 2006, the applicant was requested to submit evidence establishing her nationality and identity. The director determined that the applicant had failed to respond to his request for additional evidence and denied the application on May 2, 2006.

It is noted, however, that the applicant initially furnished with her TPS application a copy of her El Salvadoran birth certificate with English translation, and a copy of a State of California Identification Card issued on April 24, 2002.

Therefore, the applicant has overcome this ground for denial.

The third 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 5, 2006, the applicant was requested to submit evidence establishing her qualifying continuous residence and continuous physical presence in the United States. The director determined that the applicant had failed to respond to his request for additional evidence and denied the application on May 2, 2006. As previously noted, the applicant responded to the NOID on May 2, 2006, the date the application was denied; however, the applicant neither addressed nor submitted additional evidence to establish residence and physical presence in the United States.

On appeal, the applicant submits copies of evidence previously furnished and included in the record of proceeding. She also submits copies of a California School Employees Association membership card issued on May 31, 2002; and copies of W-2 Wage and Tax Statements and Form 1040, Income Tax Return, for the years 2001, 2002, 2003, 2004, 2005.

The evidence furnished by the applicant on appeal, in conjunction with other evidence included in the record of proceeding, is sufficient to establish that the applicant has met the continuous residence and continuous

physical presence requirements described in 8 C.F.R. § 244.2(b) and (c). Therefore, the applicant has overcome this ground for denial.

The applicant, however, is ineligible for TPS because she 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 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.