



U.S. Citizenship
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FILE: [REDACTED] OFFICE: California Service Center DATE: MAR 07 2007
[WAC 05 224 70040]

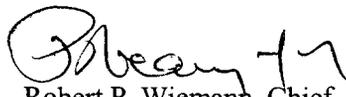
IN RE: Applicant: [REDACTED]

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, California Service Center. It is now before the Administrative Appeals Office (AAO) 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 on the grounds that the applicant failed to establish (1) that she had continuously resided in the United States since February 13, 2001 and been physically present in the country since March 9, 2001, (2) her nationality/identity, and (3) that she registered for TPS during the initial registration period or (4) is eligible for late registration and filed a timely late registration application for TPS.

On appeal the applicant submits additional documentation and states that she did not apply for TPS during the original registration period because she could not afford the fee.

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 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.

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. 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 Form I-821, Application for Temporary Protected Status, on May 12, 2005.

To qualify for late registration, the applicant must provide evidence that during the initial registration period she met at least one of the conditions 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 Citizenship and Immigration Services (CIS). *See* 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. *See* 8 C.F.R. § 244.9(b).

On May 4, 2006, the service center requested the applicant, who claims to have entered the United States without inspection on December 28, 2000, to submit evidence within 33 days that she met the requirements for late registration, as well as evidence that she meets the other requirements for TPS enumerated in 8 C.F.R. § 244.2.

On July 20, 2006, the director issued a Notice of Decision stating that the applicant had not responded to the notice of May 4, 2006, and therefore failed to establish her eligibility for TPS. The director denied the application on the grounds that the applicant had not established (1) that she had continuously resided in the United States since February 13, 2001 and been physically present in the country since March 9, 2001, (2) her nationality/identity, and (3) that she registered for TPS during the initial registration period or (4) is eligible for late registration and filed a timely late registration application for TPS.

On appeal, the applicant submits an assortment of documents, which had also been submitted previously with the application, as evidence that she has been present in the United States since December 2000. The applicant asserts that she did not apply for TPS during the initial registration period because she lacked the money to pay the fee.

The documentation of record – which includes photocopies of the applicant's birth certificate, her personal identity card from El Salvador, church correspondence, an apartment rental agreement, rental payments, utility bills, medical bills, money transfers, store receipts, and a letter from an employer – cover the time period from early January 2001 until the filing of the TPS application in 2005. Based on the evidence of record, the AAO determines that the applicant has established her identity as a national of El Salvador, a state designated for TPS under section 244(b) of the Act, and that she meets the TPS requirements applicable to El Salvadoran nationals of continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States since March 9, 2001.

However, the applicant has provided no evidence that she is eligible for late registration under any of the criteria enumerated at 8 C.F.R. § 244.2(f)(2). Accordingly, the director's decision to deny the application for TPS will be affirmed.

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.