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FILE:



OFFICE: California Service Center

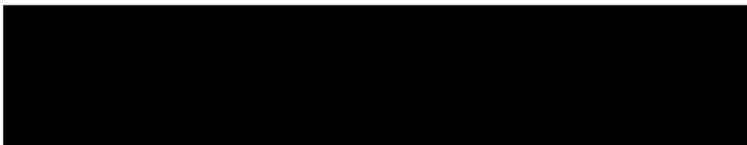
DATE:

MAR 29 2007

[WAC 05 215 79497]

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 "R. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, California Service Center. It is now on appeal before the Administrative Appeals Office (AAO). 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 ground that the applicant failed to establish that she was eligible for late TPS registration.

On appeal the applicant acknowledges that her application was late filed and submits copies of documentation already in the record.

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.

- (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.

El Salvadoran nationals applying for TPS 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 3, 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 March 22, 2006, the service center requested the applicant, who claims to have entered the United States without inspection in 1999, to submit evidence that she was eligible for late registration and met the continuous residence and continuous physical presence requirements for TPS applicants from El Salvador, as well as evidence of her date of entry into the United States and her nationality/identity. On April 21, 2006, the applicant responded with assorted documentation including photocopies of her El Salvadoran passport and birth certificate; medically-related records dated October 28, 1999, March 9, 2000, April 10, 2001, and June 24, 2002; periodic earnings statements over the period of September 1999 to June 2002; periodic Western Union money transfer records from the United States to El Salvador during the period of March 2000 to November 2001; her Internal Revenue Service (IRS) Forms W-2, Wage and Tax Statements, for the calendar years 2001 to 2005; the birth

certificates of two children the applicant bore in Livingston, New Jersey, on November 7, 2002, and June 30, 2004; and a series of letters from acquaintances in the United States who indicate that they have known the applicant since the time period of 1999-2001 up to the present.

On May 23, 2006, the director denied the application on the ground that the applicant failed to establish that she was eligible for late TPS registration.

On appeal, the applicant states that she originally planned to file a TPS application in August 2001, but that an individual assisting her did not complete the application, which accounts for her late filing.

The documentation submitted in response to the service center request on April 21, 2006, was sufficient to establish the applicant's identity and nationality; her entry into the United States in 1999; her continuous residence in the United States since February 13, 2001; and her continuous physical presence in the United States since March 9, 2001. However, there is still no evidence in the record that the applicant – whose Form I-821 was filed long after the end of the initial registration period on September 9, 2002 – is eligible for late registration under any of the criteria enumerated at 8 C.F.R. § 244.2(f)(2). Accordingly, the director's denial of the application on this ground 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 that burden.

ORDER: The appeal is dismissed.