



U.S. Citizenship
and Immigration
Services

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FILE:



OFFICE: California Service Center

DATE: MAY 02 2007

[WAC 05 138 72310]

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.

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 claims to be 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 submits copies of some previously submitted materials.

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.

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 February 15, 2005 – nearly two and a half years after the close of the initial registration period.

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 June 6, 2006, the director sent the applicant, who claims to have entered the United States without inspection on February 14, 2000, a notice of intent to deny (NOID). The applicant was requested 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 nationality/identity. The applicant responded with photocopies of her birth certificate; an apartment lease purportedly dated February 17, 2000, but without an official stamp or any other corroborating evidence that it was actually signed on that date; a medical bill dated January 3, 2001; three retail sales receipts dated November 15, 2001, April 14, 2002, and June 1, 2002; and a letter from an acquaintance in the United States who claims to have known the applicant since February 2000. Additional documentation which had been previously submitted with the application included several retail receipts from the years 2000-2001, two of which identify the purchaser as [REDACTED] and a Spanish-language receipt from El Salvador from November 2003 identifying the customer as [REDACTED]. No evidence was submitted, either with the application or in the subsequent response to the NOID, to show that the applicant was eligible for late TPS registration.

On August 2, 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 resubmits copies of the documentation submitted in response to the NOID.

Thus, there is still no evidence in the record that the applicant is eligible for late registration under any of the criteria enumerated at 8 C.F.R. § 244.2(f)(2). The director's denial of the application on this ground will therefore be affirmed.

Beyond the decision of the director, the documentation of record is not sufficient, in accordance with the evidentiary standards at 8 C.F.R. § 244.9(a)(1) and (2), to establish the applicant's nationality and identity, and that she has been continuously physically present in the United States since March 9, 2001, and continuously resident in the United States since February 13, 2001, as required for TPS applicants from El Salvador under 8 C.F.R. § 244.2(b) and (c). Accordingly, the application must also be denied on those grounds.

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 that burden.

ORDER: The appeal is dismissed.