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U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED] OFFICE: California Service Center DATE: MAY 29 2007
[WAC 05 126 71704]

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.

A handwritten signature in black ink, appearing to read "Robert P. 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 grounds that the applicant failed to establish that she was eligible for late TPS registration, and that she was continuously resident and continuously physically present in the United States from the dates applicable for TPS applicants from El Salvador.

On appeal the applicant asserts that she came to the United States on May 19, 2000, and meets the continuous residence and continuous physical presence requirements for TPS eligibility.

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 January 21, 2005 – nearly two and one-half years after the close of the initial registration period for El Salvadoran nationals.

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 issued a Notice of Intent to Deny (NOID) in which it requested the applicant to submit evidence that she was eligible for late registration, her date of entry into the United States, and that she met the continuous residence and physical presence requirements for TPS applicants from El Salvador. The applicant responded by submitting three letters from acquaintances in the United States who claim to have known her since 2000 or 2001, as well as photocopies of her El Salvadoran passport and her Employment Authorization Card issued by Citizenship and Immigration Services (CIS), valid from March 24, 2006, to September 9, 2006.

On July 18, 2006, the director denied the application on the grounds that the applicant failed to submit any documentation to establish that she was eligible for late TPS registration, and submitted insufficient evidence to establish that she was continuously resident in the United States since February 13, 2001, and continuously physically present in the United States from March 9, 2001, until the date of filing.

On appeal the applicant asserts that she came to the United States on May 19, 2000, and submits three affidavits from acquaintances in the United States who state that they have known the applicant since 2000.

Thus, there is still no evidence that the applicant – whose TPS application was filed nearly two and one-half years after the end of the initial registration period for El Salvadoran nationals – is eligible for late registration under any of the qualifying criteria enumerated under 8 C.F.R. § 244.2(f)(2). Accordingly, the director's denial of the application on that ground will be affirmed.

The only evidence in the record of the applicant's residence and physical presence in the United States are the letters and affidavits from personal acquaintances. Letters from acquaintances are not, by themselves, persuasive evidence of residence or physical presence in the United States. If the applicant has lived in the United States since May 2000, as she claims, it is reasonable to expect that she would have some contemporaneous documentation. The applicant has not submitted any of the other types of documentation enumerated in 8 C.F.R. § 244.9(a)(2) to demonstrate her continuous residence and physical presence in the United States since February/March 2001. Thus, the applicant has failed to establish 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, director's decision to deny the application on these grounds will also be affirmed.

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.