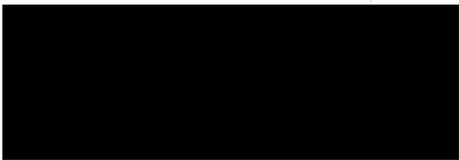




U.S. Citizenship
and Immigration
Services

PUBLIC COPY
identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy



ML

FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER
[WAC 05 188 70923 as related to LIN 03 273 50087]

Date: NOV 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.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The initial application was denied by the Director, Nebraska Service Center. A subsequent application for re-registration was denied by the Director, California Service Center, and is currently before the Administrative Appeals Office (AAO) on appeal. The initial application will be reopened, *sua sponte*, by the Chief, AAO, and the applications will be approved. The appeal will be sustained.

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 record reveals that the applicant filed a TPS application subsequent to the initial registration period under CIS receipt number LIN 03 273 50087. The Director, Nebraska Service Center, denied that application on May 4, 2004, because the applicant failed to establish her qualifying continuous residence and continuous physical presence in the United States during the requisite time periods.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on April 6, 2005, and indicated that she was re-registering for TPS.

The director denied the re-registration application because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS.

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.

The applicant filed her TPS application on April 6, 2005. Although it is considered a late registration application, the applicant is eligible for such qualification pursuant to 8 C.F.R. § 244.2(f)(2)(ii); in that she submitted her Form I-589, Application for Asylum and for Withholding of Removal, on March 6, 2000. The record of proceeding indicates that that application was pending during the initial registration period for El Salvadorans, (March 9, 2001 - September 9, 2002) and at the time the applicant filed her initial TPS application.

The record of proceeding contains the following documentation:

1. A copy of the applicant's El Salvadoran passport issued to her on September 9, 1999;
2. A copy of the applicant's Ohio Temporary Instruction ID Card issued to her on June 27, 2003;

3. A copy of the applicant's Employment Authorization card issued to her on October 30, 2002, and valid through October 29, 2003;
4. A copy of the Application for Employment Authorization, Form I-797 Receipt Notice, addressed to the applicant, for a Form I-765, Application for Employment Authorization document filed September 25, 2000;
5. A copy of the Application for Employment Authorization, Form I-797 Receipt Notice, addressed to the applicant for a Form I-765, Application for Employment Authorization document filed September 19, 2001;
6. A copy of the Application for Employment Authorization, Form I-797 Receipt Notice, addressed to the applicant for a Form I-765, Application for Employment Authorization document filed October 29, 2002;
7. A copy of a Notice to Appear before an immigration judge for consideration of removal proceedings addressed to the applicant and dated September 23, 2003.
8. A copy of the applicant's Applicant Information Worksheet completed at the Columbus, Ohio, Application Support Center on March 27, 2000; and,
9. A copy of a service record indicating that the applicant appeared for an interview for her asylum application on April 6, 2001.

The applicant has submitted sufficient evidence to establish her qualifying continuous residence and continuous physical presence in the United States during the requisite time periods as described in 8 C.F.R. § 244.2(b) and (c). Since the applicant appears to have overcome the sole ground for the denial of her initial application for TPS, that decision has been withdrawn. The record of proceedings contains sufficient evidence to establish the applicant's eligibility for TPS and does not reflect any other grounds that would bar the applicant from receiving TPS. Therefore, the initial application will be approved.

The director's denial of the application for re-registration or renewal is dependent upon the adjudication of the initial application. Since the initial application is being approved, the appeal from the denial of the re-registration will be sustained and that application will also be approved.

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 met this burden.

ORDER: The application is reopened and the director's denial of the initial application is withdrawn. The initial application and the re-registration application are both approved.