



U.S. Citizenship  
and Immigration  
Services

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FILE: [REDACTED]  
[EAC 03 170 51110]

Office: VERMONT SERVICE CENTER

Date: NOV 13 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: 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, Director  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, Vermont Service Center (VSC), and is now before the Administrative Appeals Office (AAO) on appeal. 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 because the applicant failed to establish her nationality, her continuous residence in the United States since February 13, 2001, and her continuous physical presence since March 9, 2001.

On appeal, the applicant submits additional documentation.

It is noted that the record contains two completed Forms G-28, Notice of Entry of Appearance of Attorney or Representative. Both forms appear to have been signed by [REDACTED]. On one form, dated May 3, 2003, Ms. [REDACTED] indicates that she is a paralegal representative associated with [REDACTED] New York. The other form, dated August 11, 2003, indicates that [REDACTED] is a paralegal representative associated with Alisandra Multiservices, Inc., Bay Shore, New York. However, it does not appear that Ms. [REDACTED] is authorized under 8 C.F.R. §§ 292.1 or 292.2 to represent the applicant. Therefore, the applicant shall be considered as self-represented and the decision will be furnished only to the applicant.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an applicant is eligible for TPS only if such alien establishes that he or she:

- (a) Is a national, as defined in section 101(a)(21) of the Act, of a foreign 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 § 244.3;
- (e) Is not ineligible under § 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.

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. On July 9, 2002, the Attorney General announced an extension of the TPS designation until September 9, 2003. Subsequent extensions of the TPS designation have been granted, with the latest extension valid until March 9, 2009, upon the applicant's re-registration during the requisite time period.

To qualify for late registration, the applicant must provide evidence that during the initial registration period she fell within at least one of the provisions described in 8 C.F.R. § 244.2(f)(2) above.

The burden of proof is upon the applicant to establish that she meets the above requirements. Applicants shall submit all documentation as required in the instructions or requested by Citizenship and Immigration Services (CIS). 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 her burden of proof the applicant must provide supporting documentary evidence of eligibility apart from her own statements. 8 C.F.R. § 244.9(b).

The applicant filed her initial Form I-821, Application for Temporary Protected Status, on May 9, 2003, eight months after the initial registration period had ended. In support of the application, the applicant submitted documentation indicating that she married [REDACTED] in El Salvador on September 20, 1979.

A review of the alien registration file relating to the applicant's spouse reflects that he filed a Form I-881, Application for Suspension of Deportation or Special Rule Cancellation of Removal, pursuant to section 203 of Public Law 105-100 (NACARA) on May 15, 2002. That application was approved on October 22, 2002.

On January 15, 2004, the director requested the applicant to submit evidence to establish her nationality. The director also requested the applicant to submit evidence to establish her qualifying continuous residence and continuous physical presence in the United States during the requisite time periods. The applicant was informed that such evidence may include, but was not limited to, employment or school records, rent or medical receipts, bank account or insurance documents, utility bills, or similar materials. The record reflects that the applicant failed to respond to the director's request.

The director determined that the applicant had failed to submit sufficient evidence to establish her nationality, and her qualifying continuous residence in the United States since February 13, 2001, and continuous physical presence since March 9, 2001. The director denied the application on April 15, 2004.

On appeal, the applicant submits medical records indicating that she was under the care of a physician in Bay Shore, New York, from December 1999 through May 2004.

The first issue to be addressed in this proceeding is whether the applicant has established her nationality.

A review of the record reflects that the applicant has submitted a photocopy of the biographic page from her El Salvadoran passport. Therefore, she has established her nationality and identity, as required under the provisions of 8 C.F.R. § 244.9(a)(1). Consequently, the director's decision to deny the application for Temporary Protected Status on this ground will be withdrawn.

The second issue to be addressed in this proceeding is whether the applicant has established her qualifying continuous residence and continuous physical presence in the United States during the requisite time periods.

The applicant claims to have lived in the United States since September 1999. It is reasonable to assume that she would have a variety of contemporaneous evidence to support this claim. The only documentation provided, however, are the medical records submitted on appeal and the applicant's Form W-2, Wage and Tax Statements, and Forms 1040, U.S. Individual Income Tax Returns, for the years 2002 through 2005.

Based on a review of the record, it is concluded that the applicant has not submitted sufficient corroborative evidence to establish her qualifying continuous physical presence in the United States from March 9, 2001, to the

date she filed for TPS on May 9, 2003, and her continuous residence in the United States since February 13, 2001, as required for El Salvadoran nationals under 8 C.F.R. § 244.2(b) and (c). Consequently, the director's decision to deny the application for Temporary Protected Status on these grounds will be affirmed.

Beyond the decision of the director, the record does not establish that the applicant – who filed her application for TPS on May 9, 2003, eight months after the close of the initial registration period for El Salvadoran nationals on September 9, 2002 – is eligible for late registration under any of the criteria enumerated in 8 C.F.R. § 244.2(f)(2). Consequently, the application must also be denied for this reason.

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 Temporary Protected Status 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.