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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

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FILE:

[EAC 07 006 83353]

Office: VERMONT SERVICE CENTER

Date: **OCT 03 2007**

IN RE:

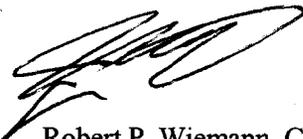
Applicant:

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, Vermont Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The applicant claims to be a native and 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 that she was eligible for late registration. The director also found that the applicant had failed to establish her qualifying residence and physical presence in the United States during the requisite periods or her date of entry into the United States.

On appeal, the applicant asserts her claim of eligibility for TPS.

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.

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. A subsequent extension of the TPS designation has been granted with validity until March 9, 2009, upon the applicant's re-registration during the requisite time period.

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 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 his or her burden of proof, the applicant must provide supporting documentary evidence of eligibility apart from his or her own statements. 8 C.F.R. § 244.9(b).

The first issue in this proceeding is whether the applicant is eligible for late registration.

The initial registration period for Salvadorans was from March 9, 2001, through September 9, 2002. The record reveals that the applicant filed her application with Citizenship and Immigration Services (CIS), on October 6, 2006.

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.

On January 8, 2007, the applicant was requested to submit evidence establishing her eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2). The applicant was also requested to submit evidence establishing her qualifying residence and physical presence in the United States. The applicant, in response, provided documentation relating to her residence and physical presence in the United States.

The director determined that the applicant had failed to establish that she was eligible for late registration and denied the application on February 26, 2007.

On appeal, the applicant states that she first registered for TPS on June 19, 2002, and that her application was approved. The applicant submitted as evidence a copy of her fingerprint notice dated October 18, 2006, a copy of her Form I-821 receipt notice dated March 15, 2005, and copies of money order receipts dated June 17, 2002.

There is no documentation contained in the record of proceeding (Form I 821, Form I-765, Immigration and Naturalization Service (INS) notice of TPS approval, or Employment Authorization notifications or cards), which demonstrates the receipt of any INS application from the applicant during 2002. The fingerprint notice and receipt notice copies submitted on appeal are relevant to the applicant's 2005 and 2006 applications. There is no corroborating evidence to show that the money order receipts were ever received by the service center.

The applicant submitted evidence in an attempt to establish her qualifying residence and physical presence in the United States. However, this evidence does not mitigate the applicant's failure to file her Application for Temporary Protected Status within the initial registration period. The applicant has not submitted any evidence to establish that she has met any of the criteria for late registration described in 8 C.F.R. § 244.2(f)(2). Consequently, the director's conclusion that the applicant had failed to establish her eligibility for late registration will be affirmed.

The second issue in this proceeding is whether the applicant has established her continuous residence in the United States since February 13, 2001, and her continuous physical presence in the United States since March 9, 2001.

The applicant submitted the following documentation:

1. A copy of the applicant's El Salvadoran passport issued to her in the United States on July 7, 2004;
2. A copy of a letter addressed to the applicant and postmarked February 4, 2000;
3. Copies of money order receipts bearing the applicant's name as sender and dated June 17, 2002;
4. A copy of a laboratory analysis bearing the applicant's name as patient and dated June 10, 2002;
5. A copy of a medical discharge notice from [REDACTED] bearing the applicant's name as patient and dated December 10, 2002;
6. A copy of the applicant's New York State Benefit identification card dated October 1, 2002; and,
7. Copies of Western Union money order receipts bearing the applicant's name as sender, and dated September and November of 2001; September, November, and December of 2002; January of 2003, February of 2004, and May of 2005.

The director determined that the applicant had failed to submit sufficient evidence to establish her eligibility for TPS and denied the application on February 26, 2007.

On appeal, the applicant reasserts her claim of eligibility for TPS and submits the following documentation:

8. Copies of Western Union money order receipts bearing the applicant's name as sender, and dated July 2002 and April 2003;
9. A letter from [REDACTED] in which she stated that the applicant has been living at her house at [REDACTED] since January 28, 2001;
10. A letter from [REDACTED] in which he stated that he has known the applicant to be present in the United States since January 28, 2001.

The applicant resubmits copies of the Western Union money order receipts on appeal.

The applicant has not submitted sufficient credible evidence to establish her qualifying residence in the United States since February 13, 2001, and her continuous physical presence in the United States since March 9, 2001. The applicant submitted affidavits (see numbers 9 and 10 above) in an effort to establish her residence and physical presence in the United States during the requisite time periods. Although the affiants state in the affidavits that they have known the applicant to be present in the United States since January of 2001, there has been no corroborative evidence to substantiate their assertions. The applicant claims to have been present in the United States since January 28, 2001. It is reasonable to expect that she would have some type of contemporaneous evidence to support these assertions; however, no such evidence has been provided. Without corroborative evidence, the affidavits from acquaintances do not substantiate clear and convincing evidence of the applicant's continuous residence and continuous physical presence in the United States.

The copies of the money order receipts provided by the applicant (see numbers 3, 7, and 8) are not supported by any other corroborative evidence. While 8 C.F.R. § 244.9(a)(2)(vi) specifically states that additional documents such as money order receipts "may" be accepted in support of the applicant's claim, the regulations do not suggest that such evidence alone is necessarily sufficient to establish the applicant's qualifying residence or physical presence in the United States.

The postmarked envelope submitted by the applicant (see number 2 above) is dated prior to the requisite time periods. The remaining evidence is dated subsequent to February 13, 2001 and March 9, 2001; and therefore, will not be considered evidence sufficient to establish the applicant's eligibility for TPS.

The applicant has failed to establish that she has met the continuous residence and continuous physical presence criteria described in 8 C.F.R. § 244.2(b) and (c). Consequently, the director's decision to deny the application for TPS on these grounds will also 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 this burden. The application will be denied for the above reasons, with each considered as an independent and alternative basis for denial.

ORDER: The appeal is dismissed.