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FILE:



OFFICE: VERMONT SERVICE CENTER

DATE:

[EAC 06 350 70223]

IN RE:

Applicant:



APPLICATION:

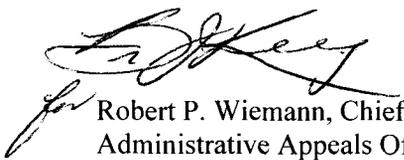
Application for Temporary Protected Status under Section 244 of the Immigration  
and Nationality Act, 8 U.S.C. § 1254

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.

  
for 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 is 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 had failed to establish that she: (1) was eligible for late registration; and (2) had continuously resided in the United States since February 13, 2001, and had been continuously physically present from March 9, 2001, to the date of filing the application.

On appeal, the applicant submits a statement and additional evidence, including evidence previously furnished and contained in the record.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an alien who is a national of a foreign state designated by the Attorney General is eligible for temporary protected status 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 8 C.F.R. § 244.4; and
- (f)
  - (1) Registers for TPS 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 condition described in paragraph (f)(2) of this section.

The term *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 term *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.

Persons applying for TPS offered to El Salvadorans must demonstrate that they have continuously resided in the United States since February 13, 2001, and that they have been continuously physically present in the United States since March 9, 2001. 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.

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 application on September 15, 2006 .

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). 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 record of proceeding confirms that the applicant filed her application after the initial registration period had closed. 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.

In a notice of intent to deny dated December 18, 2006, the applicant was requested to submit evidence to establish that she was eligible for late initial registration. The director noted that in response, the applicant submitted a copy of her mother's Form I-589 asylum application listing the applicant as a dependent child; however, the applicant had failed to establish that she was eligible to take advantage of the late registration provisions of the TPS regulation and denied the application on February 28, 2008.

On appeal, the applicant asserts that her mother applied for asylum in June 1995, and that in February 2001, she was a minor child of 16 years and she did not think she needed protection under TPS.

A review of the record indicates that on July 14, 1995, the applicant's mother [REDACTED] Application for Asylum and for Withholding of Deportation. Ms. Marroquim listed her children, including the applicant, on the Form I-589, and noted that the applicant was residing in El Salvador. On December 6, 2002, the applicant was added as a dependent of [REDACTED] in her asylum application. Form I-881, Application for Suspension of Deportation or Special Rule Cancellation of Removal (pursuant to section 203 of Public Law 105-100 (NACARA)), was subsequently filed by [REDACTED]

It is noted that the Form I-881 also indicated that the applicant was residing in El Salvador. On January 14, 2003, the NACARA application was approved, and [REDACTED] was granted adjustment of status to lawful permanent resident (LPR) under the classification of Z15. Also on January 14, 2003, [REDACTED] withdrew her application for asylum.

While 8 C.F.R. § 244.2(g) allows the applicant a 60-day period immediately following the expiration or termination of condition, in this case, after the asylum was withdrawn, to file a TPS application for late registration described in 8 C.F.R. § 244.2(f)(2)(ii), the applicant did not file her TPS application until September 15, 2006.

Accordingly, the applicant has failed 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 decision to deny the TPS application on this ground will be affirmed.

The next issue in this proceeding is whether the applicant has established her continuous residence in the United States since February 13, 2001, and continuous physical presence from March 9, 2001, to the date of filing the TPS application.

The applicant claimed to have entered the United States on December 28, 2000. Because evidence furnished was insufficient to establish eligibility, a notice of intent to deny (NOID) was issued on December 18, 2006, requesting that the applicant submit additional evidence to establish her continuous residence and continuous physical presence during the requisite period. The director noted that the evidence furnished by the applicant in response to the NOID neither illustrates that she had resided in the United States prior to February 13, 2001, nor did it illustrate that she was continuously physically present from March 9, 2001, to the date of filing the TPS application. The director, therefore, denied the application on February 28, 2008.

On appeal, the applicant resubmits the following evidence:

1. A copy of her El Salvadoran birth certificate with English translation.
2. A copy of her mother's Form I-589 asylum application and an undated letter from the applicant's mother requesting that her daughter (the applicant) be included in her asylum application.
3. Copies of the Belmont High School, Los Angeles, California, identification cards for school years 2001-2002 and 2002-2003, and a letter from Newcomer Center at Belmont High School verifying that the applicant was a student at that school from April 26, 2001 to June 28, 2002.
4. A copy of her immunization record for vaccinations received on April 18, 2001, January 16, 2003, and February 20, 2003.
5. A copy of a receipt from the Social Security Administration as evidence that the applicant applied for a Social Security card on March 7, 2003.
6. A copy of a letter dated April 20, 2005, from [REDACTED] Center, Los Angeles, California, verifying that the [REDACTED], born on July 5, 2001, is a student at the center since March 21, 2005.

7. A copy of a bill from the Los Angeles Department of [REDACTED] dated July 10, 2006.

The evidence furnished by the applicant only establishes her presence in the United States since April 2001. No evidence was furnished to establish that she was residing or was, in fact, present in the United States prior to April 2001.

Accordingly, the applicant has failed to establish that she has met the criteria for continuous residence in the United States since February 13, 2001, and continuous physical presence since March 9, 2001, as described in 8 C.F.R. § 244.2(b) and (c). Consequently, the director's decision to deny the application on this ground 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 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.