

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy



U.S. Citizenship
and Immigration
Services

PUBLIC COPY



M

FILE:



[EAC 07 004 75087]

OFFICE: Vermont Service Center

DATE:

SEP 10 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.

A handwritten signature in black ink, appearing to read "R. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Vermont Service Center (VSC). It is now on appeal before the Administrative Appeals Office (AAO). 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 on the grounds that the applicant failed to establish that she was eligible for late TPS registration, that she had been a continuous resident of the United States since February 13, 2001, and that she had been continuously physically present in the United States from March 9, 2001, to the date her TPS application was filed, and failed to provide a copy of her passport, national identity document, other type of photo identity document.

On appeal the applicant submits a series of letters from acquaintances in the United States.

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 designated by the Attorney General 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.

El Salvadoran nationals applying for TPS must demonstrate continuous residence in the United States since February 13, 2001, and continuous physical presence since March 9, 2001. The initial registration period for Salvadorans was from March 9, 2001, through September 9, 2002. The applicant filed her Form I-821, Application for Temporary Protected Status, with the VSC on September 4, 2006 – four years after the close of the initial registration period.

To qualify for late registration, the applicant must provide evidence that during the initial registration period she satisfied at least one of the criteria enumerated 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 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 January 10, 2007, the director issued a Notice of Intent to Deny (NOID) in which the applicant was requested to submit, within 30 days, evidence establishing her eligibility for late registration, her residence in the United States since February 13, 2001, and her physical presence in the United States from March 9, 2001, to the date her TPS application was filed in 2006, as well as a copy of her passport, national identification document, or other type of photo identity document.

When the applicant did not respond within the requisite time period, the director denied the application on February 26, 2007, for the reasons set forth in the NOID.

On appeal the applicant submits a series of letters from acquaintances in the United States who state that they have known the applicant since, and in some cases before, her arrival from El Salvador in 2000. (In her TPS application the applicant claims to have entered the United States in January 1995.) The applicant did not address the issues of her eligibility for late TPS registration and a photo identity document.

Thus, there is still no evidence that the applicant – who filed for TPS four years 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 at 8 C.F.R. § 244.2(f)(2). Nor has the applicant submitted a photo identity document like a passport or national identity document from El Salvador, as required under 8 C.F.R. § 244.9(a)(1). Accordingly, the director's denial of the application on these grounds will be affirmed.

As for the materials submitted on appeal, 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 January 1995, 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 continuous physical presence in the United States since February/March 2001. Simply going on record without supporting documentation does not satisfy the applicant's burden of proof. See *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)). As the record fails to establish that the applicant has been continuously physically present in the United States from March 9, 2001, to the date her TPS application was filed, and continuously resident in the United States since February 13, 2001, as required for all TPS applicants from El Salvador under 8 C.F.R. § 244.2(b) and (c), the director's denial of 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.