



U.S. Citizenship
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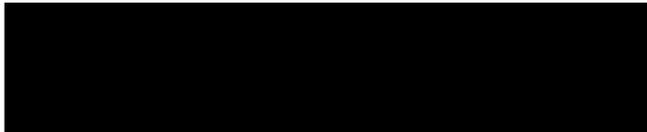
OFFICE: Vermont Service Center

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.

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 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 director denied the application on the grounds that the applicant failed to establish that she was eligible for late TPS registration and that she was continuously physically present in the United States during the requisite time period for El Salvadoran nationals.

On appeal the applicant submits additional evidence of her physical presence in the United States over the years.

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.

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.

El Salvadoran nationals applying for TPS 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. The record shows that the applicant filed her initial Form I-821, Application for Temporary Protected Status, on July 28, 2006 – nearly 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 met at least one of the conditions described 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 Citizenship and Immigration Services (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 November 15, 2006, the director requested the applicant to submit evidence that she was eligible for late registration, that she had an established residence in the United States as of February 13, 2001, and that she had been physically present in the United States from March 9, 2001, to the date her TPS application was filed. The applicant responded with assorted documents bearing dates from January 2001 to April 2002, as well as an Approval Notice issued to the applicant in 1994 on an Application for Employment Authorization (Form I-765). No documentation was submitted to show the applicant's eligibility for late TPS registration.

On August 8, 2006, the director denied the application on the grounds that the applicant failed to establish that she was eligible for late TPS registration under any of the criteria enumerated at 8 C.F.R. § 244.2(f)(2), and failed to establish that she had been continuously physically present in the United States for the requisite time period applicable to El Salvadoran nationals, in accordance with section 244(c)(1)(A)(i) of the Act.

On appeal the applicant submits various documentation – some new, some already in the record – from each of the years 1997 to 2007 as evidence of her continuous physical presence in the United States during that time period. This evidence, however, does not mitigate the applicant’s failure to file her application for TPS within the initial registration period for El Salvadoran nationals. The applicant has submitted no evidence to establish that she meets any of the criteria for late registration described in 8 C.F.R. § 244.2(f)(2). Accordingly, the director's decision to deny the application for TPS will be affirmed on this ground.

It is noted that on November 20, 1995, an Immigration Judge granted the applicant voluntary departure from the United States until January 22, 1996, with an alternate order of deportation to El Salvador. The order remains outstanding.

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.