



U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]

Office: CALIFORNIA SERVICE CENTER

Date: **SEP 28 2007**

[WAC 06 181 70021]

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:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the California Service Center. Any further inquiry must be made to that office.

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

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, California Service Center (CSC), 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 applying for Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254.

The applicant filed an initial Form I-821, Application for Temporary Protected Status, under receipt number SRC [REDACTED] during the initial registration period. The Director, Texas Service Center, denied that application on March 16, 2004, after determining that the applicant had failed not submitted sufficient evidence to conclusively prove eligibility for TPS. The applicant filed a subsequent Form I-821 on March 1, 2005 under receipt number WAC 05 152 75815. The CSC Director denied the application because the applicant failed to establish she was eligible for late initial registration. The director also found the applicant failed to establish she had continuously resided in the United States since February 13, 2001 and had been continuously physically present in the United States since March 9, 2001. A subsequent motion to reopen was rejected as late by the CSC Director on February 10, 2006.

The applicant filed the current Form I-821 on March 30, 2006, which the CSC Director denied as a re-registration application finding that the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS.

On appeal, counsel states:

The decision dated 8/5/2006 mistakenly states that Applicant filed a re-registration Form I 821.

To the contrary, Applicant submitted a late application for TPS and did not claim to have been previously granted TPS or temporary treatment benefits. The Form I 821 in question clearly evidences she checked box (a) under part 1. In further support of her application, an explanatory brief accompanied the Form I 821.

Therefore, the Form I 821 in reference should be adjudicated as a late filing, not re-registration.

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 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 section 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 conditions described in paragraph (f)(2) of this section.

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. The record shows that the applicant filed her application with Citizenship and Immigration Services on March 30, 2006.

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

On appeal, counsel correctly indicates that the applicant filed a late initial application and not a re-registration application. The applicant submitted evidence in an attempt to establish her continuous residence and continuous 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 the regulations at 8 C.F.R. § 244.2(f)(2). Consequently, the director's decision to deny the application for TPS is affirmed.

A list of the evidence submitted by the applicant concerning her continuous residence and continuous physical presence during the required period is shown below:

1. A copy of a United States Postal Service receipt showing the applicant mailed an envelope from Springdale, Arkansas, to [REDACTED] in Phoenix, Arizona, on February 25, 2001.
2. A copy of a Western Union money transfer showing the applicant forwarded funds to a person in El Salvador on December 26, 2001.
3. A copy of a laboratory sheet for the applicant listing her address in Springdale, Arkansas, showing she received prenatal laboratory procedures starting on April 5, 2002.
4. A copy of an affidavit dated July 22, 2002, from [REDACTED] President of Las Palmas Corporation in Rogers, Arkansas. [REDACTED] states that the applicant has worked at the corporation restaurant in Springdale, Arkansas, since December, 15, 2000.
5. A copy of the applicant's Republic of El Salvador passport showing it was issued to her on January 9, 2003 in Dallas, Texas.
6. A copy of a Form HUD-1, U.S. Department of Housing and Urban Development Settlement Statement, showing the applicant purchased as home in Springfield, Arkansas, on April 18, 2005.
7. A copy of an agreement dated May 9, 2005, to provide insurance between the applicant living in Springdale, Arkansas, and the Toyota Motor Credit Corporation.
8. A copy of the applicant's receipt dated November 26, 2005 from the Furniture Factory Outlet

In this case, the date of February 25, 2001 on the copy of the United States Postal Service receipt listed as Item #1 above appears to have been altered. Doubt cast on any aspect of the evidence as submitted may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. It is incumbent on the petitioner to resolve any inconsistencies in the record by independent objective evidence; any attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582. (Comm. 1988). Also, the employment affidavit from [REDACTED] listed as Item #4 above has little evidentiary weight or probative value as it does not provide basic information that is expressly required by 8 C.F.R. § 244.9(a)(2)(i). Specifically, the letter does not provide the address where the applicant resided during the period of employment and her periods of any layoffs.

It is determined that the applicant has not submitted sufficient evidence to establish her continuous residence or continuous physical presence in the United States during the period since February 13, 2001. She has, thereby, failed to establish that she has met the criteria described in 8 C.F.R. §§ 244.2(b) and (c). Consequently, the director's decision to deny the application for TPS will be affirmed for these additional reasons.

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 cited 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.