

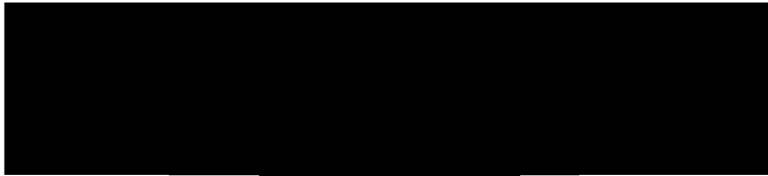
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U.S. Department of Homeland Security  
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U.S. Citizenship  
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Services

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FILE:



Office: VERMONT SERVICE CENTER

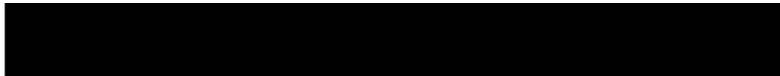
Date: APR 02 2008

[EAC 07 176 53092, appeal]

[EAC 06 325 89384]

INRE:

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 Vermont Service Center. 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, reopened, and denied again by the Director, Vermont Service Center. The matter 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 director denied the application on **February** 8, 2007 because the applicant failed to establish she was eligible for late initial registration and that she had also **failed** to establish that she had continuously resided in the United States since **February** 13, 2001. The director reviewed the case on motion to reopen and again denied the application on May 16, 2007.

On appeal, the applicant submits additional documentation to establish her continuous residence and continuous physical presence during the required period.

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.

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 EI 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 EI 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 August 21, 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.

The record reflects that on June 28, 2004 the applicant was added as a beneficiary to her mother's Form I-589, Application for Asylum and for Withholding of Deportation. Her request for asylum was administratively terminated on February 24, 2006. However, her inclusion in her mother's application does not qualify her for late initial registration because that condition was not in effect during the initial registration period.

On appeal, the applicant submits 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 application shall be denied for this reason.

The applicant indicated on her Form G-325, **Biographic** Information, filed with her Form I-589 on June 24, 2004, that she resided in EI Salvador from birth until January 2002. Therefore, she cannot establish continuous residence in the United States since February 13, 2001, or continuous physical presence in **this** country since

March 9, 2001. Therefore, the application shall be denied for these additional reasons. 8 C.F.R. §§ 244.2 (b) and (c).

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.