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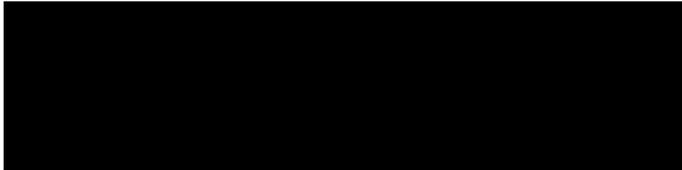
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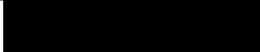
U.S. Citizenship
and Immigration
Services

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FILE:



Office: VERMONT SERVICE CENTER

Date: FEB 12 2008

[EAC 06 343 74571]

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 "Robert P. Wiemann".

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 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 because the applicant failed to establish she was eligible for late registration or that she was a national of El Salvador and eligible for TPS. The director also found that the applicant had failed to establish her qualifying continuous residence and continuous physical presence in the United States during the requisite periods.

On appeal, the applicant states that she has been in the United States since 2001 and has received work authorization as a beneficiary of an asylum application.

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 parole; 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 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 designation of TPS for El Salvadorans has been extended several times, with the latest extension valid until March 9, 2009, upon the applicant's re-registration during the requisite time period.

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 initial registration period for El Salvadorans was from March 9, 2001, through September 9, 2002. The record reveals that the applicant filed her application with CIS on August 20, 2006. 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.

On April 4, 2007, the applicant was requested to submit evidence establishing her eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2). The applicant was also requested to submit evidence establishing her qualifying continuous residence and continuous physical presence in the United States.

Despite her assertions to the contrary on appeal, the record does not reflect that the applicant submitted a response to this request.

The director determined that the applicant had failed to establish she was eligible for late registration and denied the application on June 26, 2007.

On appeal, the applicant states that she submitted copies of her “work permits through asylum” and the “denial of [her] asylum.” The applicant submitted copies of employment authorization cards valid for periods beginning on April 13, 1999, through April 12, 2000; April 12, 2001, through April 11, 2002; April 12, 2002, through April 11, 2003; and June 9, 2003, through June 8, 2004.

The record reflects that the applicant’s mother applied for asylum on February 1, 1996, and the applicant was included as a beneficiary under her mother’s application. The asylum application was withdrawn on September 27, 2003, when the mother was granted lawful permanent residence. Accordingly, the applicant was required to apply for TPS no later than November 26, 2003. The record does not reflect that the applicant received work authorization under her mother’s asylum application subsequent to the withdrawal of her mother’s asylum application.

The applicant submitted evidence in an attempt to establish her qualifying residence and 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 8 C.F.R. § 244.2(f)(2). Consequently, the director’s conclusion that the applicant had failed to establish her eligibility for late registration will be affirmed.

The second issue in this proceeding is whether the applicant has established that she is a national of a state designated as eligible for TPS under section 244(b) of the Act.

The regulation at 8 C.F.R. § 244.9(a) provides, in pertinent part:

- (1) *Evidence of identity and nationality.* Each application must be accompanied by evidence of the applicant’s identity and nationality, if available. If these documents are unavailable, the applicant shall file an affidavit showing proof of unsuccessful efforts to obtain such identity documents, explaining why the consular process is unavailable, and affirming that he or she is a national of the designated foreign state . . . [T]he applicant may present any secondary evidence that he or she feels would be helpful in showing nationality. Acceptable evidence in descending order of preference may consist of:
 - (i) Passport;
 - (ii) Birth certificate accompanied by photo identification; and/or
 - (iii) Any national identity document from the alien’s country of origin bearing photo and/or fingerprint.

The applicant submitted a copy of her birth certificate accompanied by an English translation. However, she submitted no photo identification or fingerprint identification from El Salvador establishing that she is a national of that country.

Accordingly, the director's conclusion that the applicant had failed to establish she is a national of a state designated as eligible for TPS will be affirmed.

The third issue in this proceeding is whether the applicant has established her continuous residence in the United States since February 13, 2001, or her continuous physical presence in the United States since March 9, 2001.

As stated above, the applicant was requested on April 4, 2007, to submit evidence establishing her qualifying continuous residence and continuous physical presence in the United States. The record does not reflect that the applicant responded to the request.

The director determined that the applicant had failed to submit sufficient evidence to establish her eligibility for TPS and denied the application on June 16, 2007.

On appeal, the applicant reasserts her claim and submits the following documentation:

1. Copies of employment authorization cards for the applicant for periods from April 13, 1999, to June 8, 2004.
2. A copy of the applicant's May 24, 1999, application for a Social Security card, and a receipt for the application dated the same date.
3. A copy of the applicant's September 27, 1999, California identification card.
4. A copy of the applicant's student identification card from the Los Angeles Unified School District South Gate Community Adult School for the school year 2001-2002.
5. A partial copy of a credit report, showing inquiries to her credit report beginning in March 2002. The document does not show an address for the applicant.
6. Copies of an April 1, 2002, and January 1, 2003, rent receipts for a rental unit in California.
7. Copies of the applicant's March 31, 2003, and January 13, 2007, bank statements from Downey Savings in Cudahy, California.
8. A copy of an August 27, 2003, vehicle registration card showing the applicant as the registered owner with an address in South Gate, California.

9. A copy of an October 2003 certificate from the California Department of Motor Vehicle certifying the applicant's completion of a traffic safety course.
10. A copy of a November 12, 2003, letter from the Internal Revenue Service (IRS) notifying the applicant of a deficiency on her 2001 federal tax return, a copy of a May 31, 2004, letter from the IRS notifying her of amounts owed on her 2003 federal tax return, and a copy of a June 21, 2004, letter from the IRS informing her of deficiencies on her 2002 tax return.
11. Copies of November 25, 2003, and July 12, 2007, "summary invoices" from Avalon Foods, showing the applicant's name. The document does not show an address for the applicant or for Avalon Foods.
12. A copy of an August 21, 2004, California vehicle registration issued to the applicant.
13. A copy of a 2004 Form 1099-INT, Statement of Earnings, for the applicant from Downey Savings and Loan Association. A copy of another Form 1099-INT was poorly copied and does not contain a complete date.
14. A copy of a June 23, 2005, insurance card issued to the applicant. The document does not show the applicant's address.
15. A copy of a March 22, 2006, statement from the applicant's wireless phone service, addressed to her in California.
16. A copy of an April 6, 2005, paycheck stub issued to the applicant from About Time Catering, Inc. in Los Angeles.
17. Copies of department store statements addressed to the applicant in California dated in September 2005, May 2006, October 2006, and February and June 2007.
18. A partial copy of an October 24, 2005, Social Security Statement. The applicant did not include the portion of the statement that reflects her reported earnings in the United States.
19. A copy of a November 16, 2006, notification of a return check addressed to the applicant in California.
20. A copy of a February 13, 2007, letter from the State of California Department of Motor Vehicles, informing the applicant of the reinstatement of her vehicle registration.
21. A copy of July 1, 2007, home loan statement addressed to the applicant in Victorville, California.
22. A copy of a July 4, 2007, credit card receipt for the applicant.
23. A copy of an undated letter from ditec.com addressed to the applicant in Victorville, California.

The applicant also submitted a copy of a money order receipt dated February 1, 1999, issued to [REDACTED]. There is no evidence that [REDACTED] and the applicant are the same person. A copy of a document with the name [REDACTED] does not indicate who issued it or that it was issued to the applicant.

The applicant has submitted sufficient credible evidence to establish her qualifying continuous residence in the United States since February 13, 2001, and her continuous physical presence in the United States since March 9, 2001. She has, therefore, submitted sufficient documentation 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 on this ground is withdrawn.

Nevertheless, as the applicant has not established that she is eligible for late registration or that she is a national of a state designated as eligible for TPS under section 244(b) of the Act, the application may not be approved as the record now stands.

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 this burden.

ORDER: The appeal is dismissed.