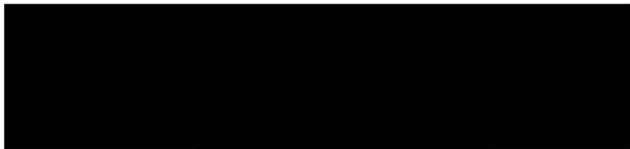




U.S. Citizenship
and Immigration
Services

identifying data deleted to
prevent clearly un
invasion of persona po
inwarranted
privacy

PUBLIC COPY



M₁

FILE:

[WAC 05 217 74532]

Office: CALIFORNIA SERVICE CENTER

Date:

JAN 22 2008

INRE:

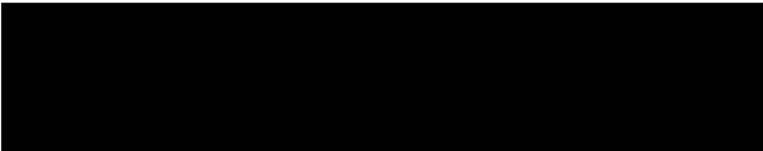
Applicant:



APPLICATION:

Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT:



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.

John H. Vaughan
for 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 (AAO) on appeal. The appeal will be dismissed.

The applicant, who claims to be a native and citizen of El Salvador, 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 after determining that the applicant had failed to establish she is eligible for late registration. The director also determined that the applicant had failed to establish her qualifying continuous residence and continuous physical presence in the United States during the requisite time periods.

On appeal, counsel for the applicant submits a brief and additional documentation.

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
- (t) (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 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 (t)(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 initial registration period for El Salvadorans was from March 9, 2001, through September 9, 2002. The record reflects that the applicant filed her initial Form I-821, Application for Temporary Protected Status, with Citizenship and Immigration Services (CIS) on March 7, 2005 - two years and six months after the initial registration period had ended.

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(t)(2) above.

The burden of proof is upon the applicant to establish that she meets the above requirements. Applicants shall submit all documentation as required in the instructions or requested by 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 her burden of proof the applicant must provide supporting documentary evidence of eligibility apart from her own statements. 8 C.F.R. § 244.9(b).

In support of her initial application, the applicant submitted the following: an abstract of her El Salvadoran birth certificate, with English translation; a student copy of a registration form, dated May 11, 2003; and three affidavits from acquaintances, dated March 2, 2005, attesting to their knowledge of the applicant's having lived in the United States since at least July 2000.

In a Notice of Intent to Deny (NOID) dated July 13, 2006, the director requested the applicant to submit evidence to establish her eligibility for late registration under at least one of the provisions described in 8 C.F.R. § 244.2(t)(2) above. The applicant was also requested to submit evidence to establish her qualifying continuous residence and continuous physical presence in the United States during the requisite time periods. The applicant

was informed that such evidence may include, but was not limited to, employment or school records, rent/mortgage payment receipts, bank or insurance documents, medical or utility bills, or other similar materials. **In** response, the applicant provided the following additional documentation: generic rent receipts for July and August 2000, and January, March and December 2001.

The director determined that the applicant had failed to establish her eligibility for late registration. The director also determined that the documentation submitted was insufficient to establish that the applicant 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. Therefore, the director denied the application on October 11, 2006.

Counsel submitted an appeal from the director's decision on November 9, 2006. On appeal, counsel asserts that applicant did not have "notice" as to the requisites for late registration, the NOID mailed to the applicant on July 13, 2006, was confusing, and that the applicant, therefore, was denied the opportunity to respond in a meaningful time and manner. On appeal, counsel resubmits documentation previously provided, as well as photocopies of: a United States Treasury Income Tax Refund check, dated August 25, 2006; a letter from the Department of the Treasury, Internal Revenue Service, dated August 7, 2006; and a Money Order, dated February 27, 2005.

Thus, the applicant still 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 decision to deny the application for this reason will be affirmed.

The applicant claims to have lived in the United States since May 16, 2000. It is reasonable to expect that she would have a variety of contemporaneous evidence to support this claim. Affidavits from acquaintances are not, by themselves, persuasive evidence of **qualifying** continuous residence and continuous physical presence. The generic rent receipts can be given little weight, as they are not accompanied by any corroborative evidence such as utility bills, a lease, letters or other objective evidence received by the applicant at her claimed address during the requisite time periods. The remaining documentation provided in support of the applicant's claim to having lived in the United States since May 16, 2000, is dated on or after March 11, 2003.

It is concluded that the applicant has not submitted sufficient credible evidence to establish her **qualifying** continuous residence in the United States since February 13, 2001, and continuous physical presence since March 9, 2001. Therefore, she has failed to establish that she meets the criteria described in 8 C.F.R. §§ 244.2(b) and (c). Consequently, the director's decision to deny the application for these reasons will also be affirmed.

Beyond the decision of the director, the applicant has not submitted sufficient evidence to establish her nationality and identity under the provisions of 8 C.F.R. § 244.9(a)(1). The application must also be denied for this reason.

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 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.