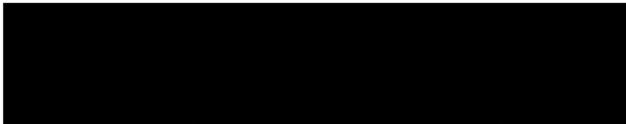


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U.S. Citizenship  
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Services

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FILE:



OFFICE: Vermont Service Center

DATE:

**JAN 29 2008**

[EAC 07 031 70530]

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.

*for* 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 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 because the applicant failed to establish she was eligible for late registration. 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 asserts her eligibility for TPS and submits additional evidence.

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.

- (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 Salvadorans was from March 9, 2001, through September 9, 2002. The record reveals that the applicant filed her application with Citizenship and Immigration Services (CIS) on October 31, 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 July 30, 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. The applicant, in response, provided documentation relating to her residence and physical presence in the United States:

1. A copy of the applicant's birth certificate and an English translation;

2. A letter dated August 30, 2006 from [REDACTED] Personnel Director of New Angel Corp., LLC, attesting that the applicant used to work for the company as an independent contractor delivering product in the New York Metropolitan Area from January 10, 2001 to December 20, 2004. However, it is also noted that this letter shows a discrepancy in the applicant's date of birth, September 13, 1973, to the date of birth that the applicant listed on her Form I-821, September 13, 1976;
3. A letter dated August 30, 2006 from [REDACTED] attesting that she had known the applicant since February 2001;
4. A letter dated August 4, 2007 from [REDACTED], Property Manager of Penn Properties, verifying that the applicant had worked for this company from January 6, 2001 to March 15, 2004;
5. A letter dated August 6, 2007 from [REDACTED], Records Unit Director of Brookhaven Memorial Hospital, attesting that the applicant had been treated in the hospital as an outpatient on January 9, 2001, March 15, 2001, September 3, 2002, and April 10, 2003.

The director determined that the applicant had failed to establish she was eligible for late registration and denied the application on September 4, 2007.

On appeal, the applicant states that she had complied with all the requirements and requests made by USCIS pertaining to proof of eligibility and that she does not have any more evidence substantiating her continuous residence and physical presence in the United States since February and March 2001.

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 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 July 30, 2007 to submit evidence establishing her qualifying continuous residence and continuous physical presence in the United States. The applicant, in response, provided the following documentation:

1. Copies of a Salvadoran National Identification Card (Cedula De Identidad Personal);
2. A copy of a Salvadoran Voter Registration ID;
3. A copy of a prescription slip prescribed by [REDACTED] MD, from South Brookhaven Health Center East dated July 17, 2006, and;
4. Letters from [REDACTED] and [REDACTED] attesting that they have known the applicant since January 2001.

The director determined that the applicant had failed to submit sufficient evidence to establish her eligibility for TPS and denied the application on September 4, 2007.

On appeal, the applicant requested that her application for Temporary Protected Status be granted.

The employment letters from New Angel Corp., LLC and Penn Properties have little evidentiary weight or probative value as they were not supported by any other corroborative evidence, such as pay statements. The letter from Brookhaven Memorial Hospital indicates that the applicant was treated at the hospital as an outpatient in January and March 2001, in September 2002, and April 2003. However, the applicant has not submitted any contemporaneous evidence for the period from April 2001 to August 2002, and from October 2002 to March 2003.

Letters of affidavits submitted by the applicant state only that the writer has "known the applicant since 2001," and are thus not sufficiently relevant to support the applicant's assertions of eligibility. Even in a light most favorable to the applicant these letters lack sufficient detail and context, and do not cover the entire required period. While 8 C.F.R. § 244.9(a)(2) specifically states that additional documents such as letters "may" be accepted in support of the applicant's claim, the regulations do not suggest that such evidence alone is sufficient to establish the applicant's qualifying residence or physical presence in the United States. The applicant claims to have lived in the United States since 2001. It is reasonable to expect that the applicant would have some other type of contemporaneous evidence to support her claim; however, no such evidence has been provided.

The applicant has not submitted sufficient credible evidence to establish her qualifying continuous residence in the United States since February 13, 2001, or her continuous physical presence in the United States since March 9, 2001. She has, therefore, 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 on these grounds will also be affirmed.

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.