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U.S. Citizenship  
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FILE:



Office: VERMONT SERVICE CENTER

Date: MAY 01 2008

[EAC 08 028 00613, appeal]  
[EAC 07 168 50977]

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 "Robert P. Wiemann".

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, Vennont Service Center, 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 (fPS) 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 initial** registration. The director also found that the applicant had not established that she had continuously resided in the United States since **February** 13, 2001 or that she had been continuously physically present in this country since March 9, 2001.

The appeal has been submitted by a Reverend who indicates she represents a non-profit organization who provides free services to migrants in her community. However, she is not authorized to represent the applicant because she has not submitted a written declaration that she is appearing without direct or indirect remuneration as required by the regulations at 8 C.F.R. § 292.1(a)(3)(ii). Therefore, the applicant shall be considered as self-represented and the decision shall only be furnished to her.

On appeal, the applicant indicates that she and her family filed and **later** withdrew Forms 1-881, Applications for Suspension of Deportation or Special Rule Cancellation of Removal, under the Nicaraguan Adjustment and Central American Relief Act (NACARA), because they had not attained seven years of physical presence in the United States at the time of their interview. The applicant provides additional documentation in support of her claim.

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 (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 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 May 24, 2007.

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(t)(2) above.

The director determined **that** the applicant had failed to establish she was eligible for late registration and denied the application October 9, 2007. On appeal, the applicant indicates that she filed a Fonn-881 under the NACARA program. The record reflects that her Fonn-881 was filed on October 17, 2006. To confer eligibility for late initial registration to the applicant, the Fonn 1-589 would have had to have been pending 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(t)(2). Consequently, the director's decision to deny the application for TPS is affirmed.

Furthermore, the applicant indicates on the Form 1-821, Application for Temporary Protected Status, that she did not enter the United States until April 17,2004. Therefore, she cannot establish continuous residence in the United States since February 13,2001, or continuous physical presence in the United States since March 9,2001. 8 C.F.R § 244.2 (b) and (c). The director's decision is affirmed for these two 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.