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U.S. Department of Homeland Security
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Washington, DC 20536

U.S. Citizenship and Immigration Services

[redacted]

FILE: [redacted] Office: NEBRASKA SERVICE CENTER Date: APR 15 2004
[LIN 03 094 50395]

IN RE: Applicant: [redacted]

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.

Cindy N. Gomez for
Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Nebraska 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 indicated on her application that she entered the United States without a lawful admission or parole. The director denied the application for Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254, 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 residence and physical presence in the United States during the requisite periods.

On appeal, the applicant asserts that she has been living in the United States since at least March 9, 2001. The applicant submits additional documentation in support of the appeal.

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 temporary protected status 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 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, or

(2) registers for TPS during any subsequent extension of such designation, if the applicant meets the above listed requirements and:

(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.

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.

The phrase brief, casual, and innocent absence, as defined in 8 C.F.R. § 244.1, means a departure from the United States that satisfies the following criteria:

(1) Each such absence was of short duration and reasonably calculated to accomplish the purpose(s) for the absence;

(2) The absence was not the result of an order of deportation, an order of voluntary departure, or an administrative grant of voluntary departure without the institution of deportation proceedings; and

(3) The purposes for the absence from the United States or actions while outside of the United States were not contrary to law.

Persons applying for TPS offered to El Salvadorans must demonstrate entry on or prior to February 13, 2001, continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States since March 9, 2001. On July 9, 2002, the Attorney General announced an extension of the TPS designation until September 9, 2003. A subsequent extension of the TPS designation has been granted by the Secretary of the Department of Homeland Security, with validity until March 9, 2005, upon the applicant's re-registration during the requisite time period. The record reveals that the applicant filed her application with the Immigration and Naturalization Service, now CIS, on January 28, 2003.

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 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 has established her continuous residence in the United States since February 13, 2001, or her physical presence in the United States since March 9, 2001.

On March 28, 2003, the applicant was requested to submit evidence establishing her qualifying residence and physical presence in the United States. The applicant, in response, provided no documentation. The applicant initially provided the following documentation:

1. Copies of her social security card, California identification card with an expiration date of September 23, 2006, and her employee card from IBP, Inc. which showed she was hired on January 30, 2002;
2. A copy of a TRAVELER'S Express Moneygram ;
3. A copy of a billing notice from Southern California Gas Company dated August 24, 1999;
4. A copy of her Employment Authorization Card with an expiration date of September 9, 2002, and;
5. A letter from Nicolas and Eva Meza who stated that the applicant cared for their mother since 1995.

The director determined that the applicant had failed to submit sufficient evidence to establish her eligibility for TPS and denied the application on May 22, 2003. On appeal, the applicant reasserted her claim and submitted the following documentation:

6. Copies of three receipts for 2002;
7. A copy of a Certified Mail receipt dated January 27, 2003;
8. Copies of four membership cards with dates in 1993, 1995, 1998, and 1999 respectively;
9. A copy of a utility bill from Sempra Energy Company dated February 24, 2000; a bill from the City of Los Angeles Municipal Services dated November 3, 1999; and a copy of a bill from the City of Los Angeles, Department of Water and Power, dated November 2, 2001; and,
10. A copy of a receipt from the Association of Salvadorans of Los Angeles dated March 7, 2001.

The applicant has submitted sufficient credible evidence to establish her qualifying residence in the United States since February 13, 2001, and her physical presence in the United States since March 9, 2001. She has, therefore, established that she has met the criteria described in 8 C.F.R. § 244.2(b) and (c). Consequently, this portion of the director's decision will be withdrawn.

The second issue in this proceeding is whether the applicant is eligible for late registration.

The record of proceedings confirms that the applicant filed her application after the initial registration period had closed. To qualify for late registration, the applicant must provide evidence that during the initial registration period, she was either in a valid immigration status, had an application pending for relief from removal, was a parolee, or was the spouse/child of an alien currently eligible to be a TPS registrant, and he had filed an application for late registration within 60 days of the expiration or termination of the conditions described in 8 C.F.R. § 244.2(f)(2).

As stated above, the applicant was requested on March 28, 2003, to submit evidence establishing her eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2).

The director determined that the applicant had failed to establish she was eligible for late registration and denied the application on May 22, 2003. The director noted that the Intent to Deny was sent to the applicant via certified mail and was not picked up.

On appeal, the applicant submits a copy of a certified mail receipt for 2003, copies of three receipts for 2002, copies of various membership cards for 1993, 1995, 1998, and 1999, and copies of two utility bills for 1999, 2000, and 2001. The applicant requests reconsideration of her case.

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.

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.