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U.S. Citizenship and Immigration Services

PUBLIC COPY

[redacted]

APR 20 2004

FILE: [redacted] Office: NEBRASKA SERVICE CENTER Date:

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.

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 is seeking Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254.

The director determined that the applicant failed to submit evidence to establish that she was eligible for filing after the initial registration period from March 9, 2001 through September 9, 2002. The director also determined that the applicant had not submitted sufficient evidence to establish that she had entered the United States prior to February 13, 2001, that she had maintained continuous residence in the United States since February 13, 2001, and that she had maintained continuous physical presence in the United States since March 9, 2001. The director, therefore, denied the application.

On appeal, the applicant claims that she came to the United States in January 2000, and that she has never left this country since that time. She states that she previously responded to a request for evidence in support of her claim. The applicant submits copies of previously-submitted evidence of her residence in the United States.

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 as 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 condition described in paragraph (f)(2) of this section.

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.

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 entry on or prior to February 13, 2001, that they have continuously resided in the United States since February 13, 2001, and that they have been continuously physically present 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 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 the Immigration and Naturalization Service, now Citizenship and Immigration Services (CIS), on January 29, 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, and her continuous physical presence since March 9, 2001.

On March 31, 2003, the applicant was requested to submit: (1) evidence of entry into the United States prior to February 13, 2001; (2) evidence to show that she had continuously resided in the United States since February 13, 2001; (3) evidence to show that she had been continuously physically present in the United States since March 9, 2001; and (4) evidence to establish that she was eligible for filing after the initial registration period from March 9, 2001 through September 9, 2002.

In response, the applicant submitted the following documentation:

1.) a MoneyGram receipt dated August 14, 2000;
2.) a MoneyGram receipt dated December 1, 2000; and,
3.) an April 15, 2003 statement from who states he has known the applicant since January 2000 and that she has rented an apartment in his house since that time.

The director concluded that the applicant had failed to establish her qualifying residence and physical presence in the United States during the requisite periods and denied the application on March 21, 2003. On appeal, the applicant reiterates her claim to eligibility for TPS. She submits the original MoneyGram receipts, outlined in items No. 1 and 2, above, and two copies of the April 15, 2003 statement from which is outlined in item No. 3, above.

The statement from Mr indicating the applicant rented an apartment from him starting in January 2000 is not supported by any corroborative evidence. The applicant claims to have lived in the United States since April 7, 2000. It is reasonable to expect that she would have some other type of contemporaneous evidence to support her claim; however, no such evidence has been provided. The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. 8 C.F.R. § 244.9(b). It is determined that the documentation submitted by the applicant is not sufficient to establish that she satisfies the residence and physical presence requirements described in 8 C.F.R. §§ 244.2(b) and (c). Consequently, the director's conclusion that the applicant had not established that she had met the continuous residence and physical presence criteria for TPS will be affirmed.

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

The record of proceeding confirms that the applicant filed her application for TPS on January 29, 2003, after the initial registration period had closed. To qualify for late registration, the applicant must provide evidence that during the initial registration period, he or she was either in a valid nonimmigrant status, had an application pending for relief from removal, was a parolee, or was the spouse or child of an alien currently eligible to be a TPS registrant, and he or she 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, on March 31, 2003, the applicant was requested to submit evidence establishing her qualifying residence and physical presence in the United States, and to establish her eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2). The applicant, in response, provided documentation relating to her residence and physical presence in the United States; however, she did not submit any documentation to establish that she was eligible for late registration.

The director determined that the applicant had not established that she was eligible for late registration. On May 21, 2003, the director denied the application. On appeal, the applicant reiterates her claim that she has resided in the United States since January 2000. The applicant submits evidence of her residence in the United States. However, this evidence does not mitigate the applicant's failure to file her application for TPS within the initial registration period. The applicant has not furnished 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), and to overcome the findings of the director. Consequently, the director's decision to deny the application on this ground will also be affirmed.

The burden of proof is upon the applicant to establish 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.