



U.S. Citizenship
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FILE: [REDACTED]
[EAC 07 002 75825]

OFFICE: VERMONT SERVICE CENTER

DATE: OCT 30 2007

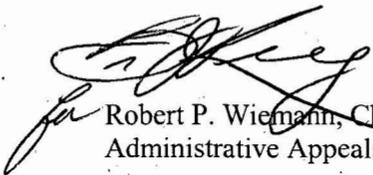
IN RE: Applicant: [REDACTED]

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.


Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Vermont Service Center (VSC), 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 denied the application because the applicant had failed to establish that she: (1) was eligible for late registration; and (2) had continuously resided in the United States since February 13, 2001, and had been continuously physically present from March 9, 2001, to the date of filing the application.

On appeal, the applicant submits a statement and additional evidence, including evidence previously furnished and contained in the record.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an alien 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 § 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.

The term *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 term *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.

Persons applying for TPS offered to El Salvadorans must demonstrate 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. Subsequent extensions of the TPS designation have been granted, with the latest extension valid until March 9, 2009, 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 shows that the applicant filed her application on October 2, 2006.

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 record indicates that the applicant filed an initial TPS application on July 31, 2003, under receipt number WAC 03 241 51161. The Director, California Service Center (CSC), denied that application on March 4, 2004, after determining that the applicant had abandoned her application based on her failure to appear for fingerprinting on September 24, 2003. There is no appeal from a denial due to abandonment; however, the applicant could have filed a motion to reopen within 30 days of the date of the denial notice. 8 C.F.R. § 103.2(b)(15). The record does not reflect that the applicant filed a motion within the allotted timeframe.

The applicant filed a subsequent TPS application on January 19, 2005, under CIS receipt number WAC 05 111 75102, and indicated that she was re-registering for TPS. The CSC director denied the re-registration application on August 16, 2005, because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS. The applicant appealed the CSC director's decision to the AAO on September 20, 2005. The AAO reviewed the record of proceeding, including the applicant's appeal, and noted that the only evidence furnished by the applicant to demonstrate her continuous residence and continuous physical presence during the requisite period are three receipts from Avon, and that one of the receipts was dated January 4, 2001, which casts doubt on her actual entry date into the United States on January 6, 2001. The AAO affirmed the director's decision and dismissed the appeal on August 14, 2006.

The applicant filed the current Form I-821, Application for Temporary Protected Status (EAC 07 002 75825), on October 2, 2006, and indicated that this is her "first application to register for Temporary Protected Status (TPS)."

In a Notice of Intent to Deny (NOID) dated February 13, 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 VSC director addressed the applicant's statement and the evidence furnished in response to the NOID, and determined that the applicant had failed to overcome the grounds for denial. The director, therefore, denied the application on May 10, 2007.

On appeal, the applicant submits additional evidence in an attempt to establish continuous residence and continuous physical presence in the United States. The evidence, however, 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 decision to deny the TPS application on this ground will be affirmed.

The next issue in this proceeding is whether the applicant has established her continuous residence in the United States since February 13, 2001, and continuous physical presence from March 9, 2001, to the date of filing the TPS application.

In a Notice of Intent to Deny dated February 13, 2007, the applicant was requested to submit evidence establishing her continuous residence in the United States since February 13, 2001, and continuous physical presence from March 9, 2001, to the date of filing the application. The VSC director addressed the applicant's statement and the evidence furnished in response to the NOID, and determined that the evidence did not establish a continuous residence or presence from 2001 until the date of filing the application. The director, therefore, denied the application on May 10, 2007.

On appeal, the applicant asserts that she has been residing in this country since January 6, 2001, she submitted her documents to the person who was assisting with her case, but that person made an error. She resubmits copies of the Avon receipts previously furnished and addressed by the AAO. She also submits the following:

1. A copy of a money transfer receipt from Leon Express, Inc. dated January 30, 2001.
2. A statement of employment dated June 7, 2007, from [REDACTED] indicating that the applicant worked for him twice a week cleaning his house from February 2001 to June 3, 2003.
3. Copies of earnings statements from [REDACTED], dated November 21, 2003; January 2, 2004; May 7, 2004; July 16, 2004; December 30, 2004; September 9, 2005; September 23, 2005; March 24, 2006; and May 19, 2006.
4. Copies of a Form W-2 for tax years 2004, 2005, and 2006 issued by Field Fresh Foods; and copies of Form 1040, Income Tax Returns, for tax years 2005 and 2006.
5. A copy of a certification from [REDACTED] California, that the applicant received care at the clinic on October 29, 2004.
6. A copy of the applicant's [REDACTED] in Los Angeles, California, on December 20, 2004.
7. A copy of a California birth certificate of the applicant's daughter born on March 26, 2005.
8. A copy of an earning statement from [REDACTED] California, dated May 16, 2007.

While the record indicates that the applicant furnished ample evidence to establish residence and physical presence in the United States since November 2003 to the date of filing the application, the applicant,

however, has not submitted sufficient, credible evidence of her residence prior to November 2003. The employment letter from Mr. [REDACTED] (No. 2 above), has little evidentiary weight or probative value as it did not provide basic information that is expressly required by 8 C.F.R. § 244.9(a)(2)(i). Specifically, the letter did not provide the complete address or addresses where the applicant resided during the period of her employment, the exact period(s) of employment, and the periods(s) of layoff, if any. Moreover, the letter was not supported by any other corroborative evidence, such as pay statements. It is also noted that the applicant resubmitted copies of the Avon receipts that the AAO had determined to be not credible. The applicant did not address this finding of the AAO.

Accordingly, the applicant has failed to establish that she has met the criteria for continuous residence in the United States since February 13, 2001, and continuous physical presence since March 9, 2001, as described in 8 C.F.R. § 244.2(b) and (c). Consequently, the director's decision to deny the application 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 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.