

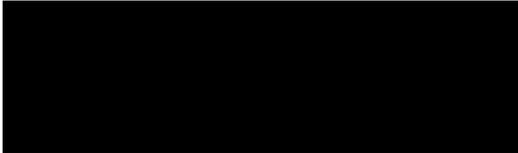


U.S. Citizenship  
and Immigration  
Services

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FILE:



OFFICE: VERMONT SERVICE CENTER

DATE: AUG 24 2007

[EAC 04 140 53339]

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.

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 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 for Temporary Protected Status (TPS), because the applicant failed to establish that she was eligible for late registration, and had failed to submit sufficient evidence to show her continuous residence and continuous physical presence in the United States during the requisite time periods.

On appeal, the applicant states that she filed an initial TPS application during the requisite registration period, and asserts her claim of eligibility for TPS.

The record reveals that the applicant did file an initial application for TPS during the initial registration period. That application was denied on August 6, 2003, because the applicant had failed to submit sufficient evidence to establish her continuous residence and continuous physical presence in the United States during the requisite time periods. The applicant filed an appeal subsequent to the requisite timeframe. The director denied the appeal on March 3, 2004, because it had been untimely filed, and she did not treat it as a motion because it did not meet the requirements of 8 C.F.R. § 103.5(a)(2) or (3).

The applicant filed a subsequent Form I-821, Application for Temporary Protected Status, on April 1, 2004. The director denied this second application because it was filed outside of the initial registration period and because the applicant had failed to establish her eligibility for filing under the provisions of late registration. While the director found the applicant ineligible for TPS because she had failed to establish eligibility for late registration, the director's decision did not sufficiently explain the entire basis for denial.

The applicant's initial Form I-821 was properly filed on August 10, 2001. The director denied the initial TPS application on August 6, 2003. Any Form I-821 application subsequently submitted by the same applicant after an initial application is filed and a decision rendered must be considered as either a request for annual registration or as a new filing for TPS benefits.

If the applicant is filing an application as a re-registration, a previous grant of TPS must have been afforded the applicant, as only those individuals who are granted TPS must register annually. In addition, the applicant must continue to maintain the conditions of eligibility. 8 C.F.R. § 244.17.

The applicant filed a subsequent Form I-821 on April 1, 2004. Since the initial application was denied on August 6, 2003, the subsequent application cannot be considered as a re-registration. Therefore, this application can only be considered as a late registration.

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 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.

Persons applying for TPS offered to El Salvadorans must demonstrate continuous residence in the United States since February 13, 2001, and continuous physical presence since March 9, 2001. 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 April 1, 2004.

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.

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).

On July 14, 2004, 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 residence and physical presence in the United States from February 13, 2001, to the date of filing. The applicant, in response, provided evidence in an attempt to establish her qualifying residence and physical presence in the United States.

The director determined that the applicant had failed to establish that she was eligible for late registration and denied the application on August 4, 2004.

On appeal, the applicant states that she properly filed an application for TPS during the initial registration period, that she doesn't understand why her initial TPS application was denied, that she received two work authorizations subsequent to submitting her initial I-821 application, and that she should be eligible for TPS. She also stated that she was advised at the Baltimore Service Center to submit a second TPS application to be considered as a late petition.

The applicant has 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 Form I-821, 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 application for TPS will be affirmed.

A second 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 in the United States since March 9, 2001.

The applicant provided the following documentation in an effort to establish her residence and physical presence in the United States:

1. Copies of her employment authorization cards dated September 1, 2001 and September 10, 2002;
2. A copy of the applicant's El Salvadoran passport issued to her by the El Salvadoran officials on February 14, 2001;
3. Copies of rent receipts dated January, March, June, and September of 2001, and February of 2002;
4. A copy of the applicant's IRS Form W-2, Wage and Tax Statement, for 2001;
5. Copies of handwritten postal service money order receipts bearing the applicant's name as user, and dated April and November of 2001; and,
6. A copy of the applicant's IRS Form 1040, U.S. Individual Income Tax Return, for 2002.

The director determined that the applicant had failed to submit sufficient evidence to establish her eligibility for TPS and denied the application on August 4, 2004.

On appeal, the applicant reasserts her claim of eligibility for TPS.

The applicant has not submitted sufficient credible evidence to establish her qualifying residence in the United States since February 13, 2001, or her physical presence in the United States since March 9, 2001. The rent receipts (See number 3 above) do not bear the applicant's name. The Internal Revenue Service tax records (See numbers 4 and 6 above) do not reflect the specific dates in which the applicant was present in the United States. Although the applicant states that her El Salvadoran passport was sent to her by relatives residing in that country, she has failed to submit any evidence to substantiate that claim.

The copies of money order receipts provided by the applicant are not supported by any other corroborative evidence. (See number 5 above). While 8 C.F.R. § 244.9(a)(2)(vi) specifically states that additional documents such as money order receipts "may" be accepted in support of the applicant's claim, the regulations do not suggest that such evidence alone is necessarily 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 2000. It is reasonable to expect that the applicant would have some other type of contemporaneous evidence to support these receipts; 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).

The applicant has failed to establish that she has met the continuous residence and continuous physical presence 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.

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. The application will be denied for the above reasons, with each considered as an independent and alternative basis for denial.

**ORDER:** The appeal is dismissed.