



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

**Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy**



MI

FILE:

[REDACTED]
[EAC 07 006 70899]

OFFICE: VERMONT SERVICE CENTER

DATE: AUG 27 2007

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 claims to be 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 respond to a request to submit evidence to establish: (1) that she was eligible for late registration; (2) her identity; and (3) that she 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.

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 September 9, 2007, 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 initial application on October 6, 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 first issue in this proceeding is whether the applicant is eligible for late registration.

The record of proceeding 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 fell within at least one of the provisions described in 8 C.F.R. § 244.2(f)(2) above.

In a Notice of Intent to Deny (NOID) dated January 19, 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 director determined that the applicant had failed to respond to the NOID and denied the application on March 12, 2007.

On appeal, the applicant asserts that she has been continuously residing in the United States since prior to the date of the initial registration for TPS; however, she did not file the appropriate application to register under the program because she was afraid to be deported to El Salvador.

The applicant has failed to submit 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 second issue in this proceeding is whether the applicant has established her identity.

In a Notice of Intent to Deny dated January 19, 2007, the applicant was requested to submit evidence to establish her identity. The director determined that the applicant had failed to respond to the NOID and denied the application on March 12, 2007.

On appeal, the applicant neither addressed nor submitted any evidence to establish her identity and nationality as required by 8 C.F.R. § 244.9(a)(1). Consequently, the director's decision to deny the TPS application on this ground will also be affirmed.

The third 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.

As stated above, the applicant was requested on January 19, 2007, to submit evidence establishing her qualifying continuous residence and continuous physical presence in the United States. The director determined that the applicant had failed to respond to the NOID and denied the application on March 12, 2007.

On appeal, the applicant asserts that she has been continuously residing in the United States since prior to the date of the initial registration for TPS; however, she did not file the appropriate application to register under the program because she was afraid to be deported to El Salvador. She further asserts that she has been willing, and actively pursuing her TPS application, and requests that her case be reopened and continued for final review. She states that she is enclosing evidence that she has gathered in order to support her claim. The applicant submits:

- (1) A statement dated March 23, 2007, from [REDACTED] indicating that the applicant lived at [REDACTED] [REDACTED], Omaha, Nebraska, from June 19, 1999 to April 28, 2003, "without paying any rent or utilities in exchange for babysitting part time and housekeeping."

While [REDACTED] listed the applicant's address from June 1999 to April 2003, he failed to provide any details or specifics regarding the nature, circumstances, or origin of his relationship or acquaintanceship with the applicant. Further, it is not known whether [REDACTED] also resided at that address as he failed to list his own address. Additionally, there is no evidence in the record to indicate that the applicant had ever resided at that address.

Regulations at 8 C.F.R. § 244.9(a)(2) do not expressly provide that personal affidavits on an applicant's behalf are sufficient to establish the applicant's qualifying continuous residence or continuous physical presence in the United States. Moreover, this one affidavit, provided by the applicant to establish her qualifying residence in the United States, was not supported by any other corroborative evidence. The applicant claimed to have lived in the United States since December 2000. It is reasonable to expect that the applicant would have some other type of contemporaneous evidence to support her claim; however, no such evidence has been provided.

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 TPS application on this ground also will 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.