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U.S. Citizenship  
and Immigration  
Services

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FILE: [REDACTED]  
[WAC 03 247 51211]

OFFICE: California Service Center

DATE: JUN 04 2007

IN RE: Applicant:

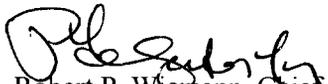


APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

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, California Service Center (CSC). It is now on appeal before the Administrative Appeals Office (AAO). The appeal will be dismissed.

The applicant is a 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 on the ground that the TPS application was not timely filed during the initial registration period and the applicant failed to establish that she was eligible for late registration.

On appeal the applicant submits photocopies of a letter from the principal of her elementary school, her immunization record, and her El Salvadoran passport.

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.

El Salvadoran nationals applying for TPS 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 shows that the applicant filed her initial Application for Temporary Protected Status (Form I-821) on July 29, 2003 – nearly a year after the close of the initial registration period.

To qualify for late registration, the applicant must provide evidence that during the initial registration period she satisfied at least one of the criteria enumerated 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 Citizenship and Immigration Services (CIS). *See* 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. *See* 8 C.F.R. § 244.9(b).

As previously stated, the applicant filed her initial TPS application on July 29, 2003. On December 19, 2003, the director issued a Notice of Intent to Deny (NOID) in which the applicant was requested to submit evidence establishing her eligibility for late registration, her physical presence in the United States from March 9, 2001, to the date her TPS application was filed, as well as her nationality and identity. The applicant was advised to submit the requested evidence within 30 days.

After the applicant failed to respond to the NOID, the director issued a Notice of Decision on February 28, 2004, denying the application on the ground that the applicant did not file her TPS application during the initial registration period, as provided under 8 C.F.R. § 244.2(f)(1), and failed to establish that she was eligible for late registration in accordance with the criteria at 8 C.F.R. § 244.2(f)(2) and (g).

On appeal the applicant submits photocopies of (1) a letter from the principal of her elementary school in Los Angeles, California, dated January 7, 2004, confirming that the applicant attended the school and was the daughter of [REDACTED] and [REDACTED], (2) her immunization record with a series of entries from a clinic in Los Angeles dated May 17, 2001, and October 24, 2001, and (3) her El Salvadoran passport, issued by the Consul General in Los Angeles on January 7, 2004. The applicant had previously submitted with her Form I-821 photocopies of her El Salvadoran birth certificate, stating that she was born in Berlin, Usulután, El Salvador on October 5, 1995, and two Employment Authorization Cards issued to her mother by the U.S. Department of Justice, Immigration and Naturalization Service, with validity periods of September 8, 2001 – September 9, 2002, and September 10, 2002 – September 9, 2003.

The applicant implies that she qualifies for late TPS registration under 8 C.F.R. § 244.2(f)(2)(iv) because her mother, [REDACTED] was granted Temporary Protected Status. CIS records, however, do not indicate that the applicant's mother has ever been granted TPS. The file of [REDACTED] shows that she filed two TPS applications during the initial application period for El Salvadoran nationals – in June 2001 and February 2002 – but that they were denied by the Director, CSC, in a decision issued on December 15, 2003, after [REDACTED] failed to provide the final court disposition of an arrest by the Los Angeles Police Department for petty theft on February 2, 2003. A subsequent motion to reopen or reconsider was dismissed on May 14, 2004, by the Director, CSC, on the ground that it was not filed within the required time period. Thus, the record does not establish that the applicant qualifies for late registration under the criterion at 8 C.F.R. § 244.2(f)(2)(iv) as the child of a currently eligible TPS registrant. Nor does she qualify for late registration under any of the other criteria enumerated at 8 C.F.R. § 244.2(f)(2)(i), (ii), and (iii).

Accordingly, the director's decision to deny the application for TPS on the foregoing ground will be affirmed.

Beyond the decision of the director, the AAO determines that the evidence of record is insufficient to establish that the applicant has been continuously physically present in the United States since March 9, 2001, and continuously resident in the United States since February 13, 2001, as required for TPS applicants from El Salvador under 8 C.F.R. § 244.2(b) and (c). The AAO notes that the applicant's mother did not list her daughter, or any other children, on her first two TPS applications, filed in June 2001 and February 2002. Not until her third TPS application, filed on July 29, 2003, did the applicant's mother list the applicant as a child living with her in the United States. Accordingly, the applicant must also be denied for failure of the applicant to establish continuous residence and continuous physical presence in the United States from February/March 2001.

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 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 that burden.

**ORDER:** The appeal is dismissed.