

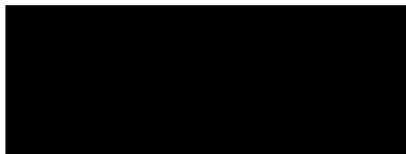
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U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
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U.S. Citizenship
and Immigration
Services

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MI

FILE:



OFFICE: California Service Center

DATE:

MAR 22 2007

[WAC 05 231 71595]

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.

A handwritten signature in cursive script, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, California Service Center. It is now on appeal before the Administrative Appeals Office (AAO). The appeal will be dismissed.

The applicant claims to be 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 applicant failed to establish that she is eligible for late registration and did not meet the other eligibility requirements for TPS.

On appeal the applicant requests that her case be reviewed.

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.

The phrase 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.

The phrase 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.

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 El Salvadorans was from March 9, 2001, through September 9, 2002. The record reveals that the applicant filed her initial TPS application with Citizenship and Immigration Services (CIS) on May 16, 2005.

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 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).

On April 24, 2006, 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), as well as documentary evidence of her continuous residence in the United States since February 13, 2001, and her continuous physical presence in the United States since March 9, 2001. In response the applicant, who claims to have entered the United States without inspection on May 30, 2000, submitted two letters from acquaintances who state that they have known the applicant since 2000 or 2001.

In a Notice of Decision issued on June 6, 2006, the director determined that the evidence submitted by the applicant failed to establish her eligibility for TPS. In particular, the director found that the applicant provided no evidence of her eligibility for late registration and insufficient evidence that she met the continuous residence and physical presence requirements for TPS applicants from El Salvador.

The applicant filed a timely appeal, but did not submit any additional documentation in support of her application. The record still contains no evidence to show that the applicant is eligible for late registration under any of the criteria enumerated at 8 C.F.R. § 244.2(f)(2). Accordingly, the director's decision denying the application on this ground will be affirmed.

The AAO also concurs with the director that the evidence of record is insufficient to show 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 previously submitted materials include two letters from acquaintances. One, dated September 15, 2003, is from an individual in Colonia, New Jersey who claims to have known the applicant since January 2001 and states that "I have seen her in many different situations over these past two years." The letter provides no details about how the author met the applicant, where she was living during the years, 2001-2003, and the nature of their interaction during that time. Moreover, because of its date, the letter provides no information about the applicant since September 2003. The other letter, dated May 8, 2006, is from a person in Elizabeth, New Jersey, who states that the applicant was living at his address from June 12, 2000, to March 28, 2004. The letter provides no information about what the applicant was doing during those years, the nature of the author's interaction with the applicant, and whether he maintained any contact with the acquaintance after March 2004.

If the applicant has lived in the United States since May 2000, as she claims, it is reasonable to expect that she would have some contemporaneous documentation. Letters from acquaintances are not, by themselves, persuasive evidence of residence or physical presence in the United States. Simply going on record without supporting documentation does not satisfy the applicant's burden of proof. *See Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)). The applicant has not submitted any of the other types of documentation enumerated in 8 C.F.R. § 244.9(a)(2) to demonstrate her continuous residence and physical presence in the United States since February/March 2001. As the record fails to establish that the applicant meets the continuous residence and continuous physical presence requirements for TPS applicants from El Salvador, 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 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.