

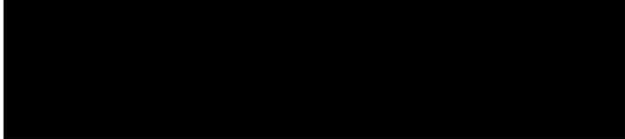
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U.S. Citizenship
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FILE: [REDACTED]
[WAC 05 223 90736]

Office: California Service Center

Date: MAY 29 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, California Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. 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 record reveals that the applicant filed a late initial TPS application on May 11, 2005, under CIS receipt number WAC 05 223 90736. The director denied the application on September 25, 2006, because the applicant failed to submit evidence to establish eligibility for late initial registration for TPS, her continuous residence in the United States, and her continuous physical presence, and her nationality and identity.

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 as 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 section 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 conditions described in paragraph (f)(2) of this section.

Continuously physically present 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.

Continuously resided 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.

Brief, casual, and innocent absence means a departure from the United States that satisfies the following criteria:

- (1) Each such absence was of short duration and reasonably calculated to accomplish the purpose(s) for the absence;
- (2) The absence was not the result of an order of deportation, an order of voluntary departure, or an administrative grant of voluntary departure without the institution of deportation proceedings; and
- (3) The purposes for the absence from the United States or actions while outside of the United States were not contrary to law.

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 TPS application with Citizenship and Immigration Services (CIS) on May 11, 2005.

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).

To qualify for late registration, the applicant must provide evidence that during the initial registration period, he/she was either in a valid immigration status, had an application pending for relief from removal, was a parolee, or was the spouse/child of an alien currently eligible to be a TPS registrant, and he/she had filed an application for late registration within 60 days of the expiration or termination of the conditions described in 8 C.F.R. § 244.2(f)(2).

With her TPS application, the applicant submitted photocopies of:-

- An El Salvador birth certificate with an English translation;
- 2 Banco Agricola money transfer receipts, dated in January 2002, and in January 2005;
- Four receipts from ADIR Financial Services, dated in 2004;
- Two receipts from [REDACTED], dated in November 2004;
- A medical appointment letter, dated September 1, 2003;

- 2 FedEx US Airbills, dated January 20, 2001, and April 2003, respectively;
- An envelope addressed to the applicant in Los Angeles, California, date-stamped in 2003;
- Three Urgente Express money transfer receipts, dated January 14, 2001, in November 2002, and in December 2002;
- A reference letter, dated February 28, 2005, from [REDACTED] USA Manager of Urgente Express, stating that the applicant has been employed by the company since January 2001;
- 2 invoices from MCS Network.Com, dated January 8, 2001, and June 7, 2002, respectively;
- An untranslated letter (in Spanish), from Urgente Express, dated February 2001; and,
- An El Salvador photo identification card, issued in 2000.

On July 21, 2006, the applicant was provided the opportunity to submit evidence establishing her eligibility for TPS, including eligibility for late initial registration as set forth in 8 C.F.R. § 244.2(f)(2). The applicant's response consisted primarily of reference letters, tax returns for 2002 - 2005, money transfer records, and some of the evidence earlier submitted.

On appeal, the applicant states that she applied late for TPS; however, she has submitted evidence to establish her eligibility for TPS. With her appeal, in an attempt to establish her continuous residence in the United States, and her continuous physical presence, the applicant resubmits a 2001 U.S. Individual Income Tax Return, Form 1040, and some of the same evidence earlier provided.

The applicant has submitted evidence, which cumulatively, establishes the applicant's continuous residence in the United States since February 13, 2001, and continuous physical presence since March 9, 2001, and her nationality and identity. However, the evidence of record 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 failed to provide any evidence to establish that this application should be accepted as a late initial registration under 8 C.F.R. § 244.2(f)(2). Consequently, the director's decision to deny the application for this reason must 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.