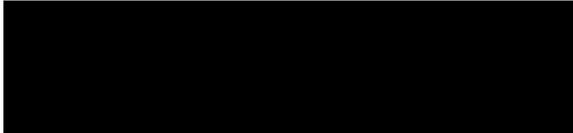




U.S. Citizenship  
and Immigration  
Services

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FILE: [REDACTED] OFFICE: VERMONT SERVICE CENTER DATE: OCT 30 2007  
[EAC 07 002 78033]

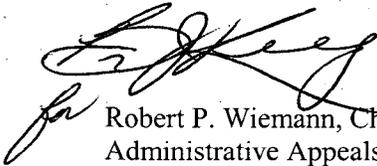
IN RE: Applicant: [REDACTED]

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, Vermont Service Center (VSC), 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 because the applicant had failed to establish that she was eligible for late registration, and also failed to submit an identity document.

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 March 9, 2009, 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 TPS application on October 2, 2006.

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 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 record indicates that the applicant filed a TPS application during the initial registration period on March 22, 2001, under receipt number WAC 01 168 55137. The District Director, Los Angeles, California, denied that application based on abandonment on December 5, 2005, because the applicant had failed to appear for a scheduled interview on November 29, 2005, and the applicant did not provide an explanation for her failure to appear, nor did USCIS have any record that she submitted a change of address. There is no appeal from a denial due to abandonment; however, the applicant could have filed a motion to reopen within 30 days of the date of the denial notice. 8 C.F.R. § 103.2(b)(15). The record does not reflect that the applicant filed a motion within the allotted timeframe.

The applicant filed a subsequent TPS application on February 16, 2005, under CIS receipt number WAC 05 139 85858, and indicated that she was re-registering for TPS. The Director, California Service Center (CSC), denied the re-registration application due to abandonment on March 15, 2006, based on the applicant's "failure to appear for collection of your biometrics." On June 8, 2006, the applicant filed a motion to reopen her case. She stated that she never received notice of the appointment for fingerprinting, and submitted copies of two Forms I-797C, Notice of Action, containing "Biometrics Processing Stamps" dated April 27, 2005 and August 31, 2005. Additionally, the Federal Bureau of Investigation fingerprint results reports also indicate that the

applicant was fingerprinted on June 8, 2004, and on June 17, 2006, and the reports do not reflect a criminal record. On August 10, 2006, the CSC director rejected the appeal/motion because it was untimely filed.

It is noted that the CSC director's decision did not include the date the applicant was scheduled to appear for fingerprinting. As noted above, the applicant appeared for fingerprinting on four occasions. Nevertheless, the applicant's initial TPS application (WAC 01 168 55137) had been denied and the applicant was not eligible to apply for re-registration for TPS 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. In this case, the applicant had not previously been granted TPS; therefore, she was not eligible to re-register for TPS.

The applicant filed the current Form I-821, Application for Temporary Protected Status (EAC 07 002 78033), on October 2, 2006, and indicated that this is her "first application to register for Temporary Protected Status (TPS)."

In a Notice of Intent to Deny dated March 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 applicant was also requested to submit evidence establishing 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 application, and a copy of her identity document. The VSC director noted that the applicant, in response, had submitted adequate evidence to establish that she had met the residence and physical presence requirements; however, she did not submit any evidence to establish eligibility under the late registration provisions or a copy of her identity document. The director, therefore, denied the application on May 7, 2007.

On appeal, the applicant submits a copy of an El Salvadoran passport issued to the applicant in Los Angeles, California, on November 3, 2006, as evidence of her nationality and identity. The applicant asserts that she is eligible for late registration "by previously filing an application for change of status, to wit, a previous I-821 application. That surely is a change of status application." She requests that she be granted TPS as there is no dispute that she qualifies for TPS in all respects, and because she has three United States citizen children to support.

The applicant's assertion on appeal is without merit. There is no evidence in the record that during the initial registration period for El Salvadorans, the applicant was a nonimmigrant or had been granted voluntary departure status or any relief from removal; had an application for change of status, adjustment of status, asylum, voluntary departure, or any relief from removal which was pending or subject to further review or appeal; was a parolee or had a pending request for reparable; or was a spouse or child of an alien currently eligible to be a TPS registrant. Pending or previously filed TPS applications do not fall under any of the categories listed in 8 C.F.R. § 244.2(f)(2). Further, TPS does not lead to permanent resident status, nor is it an adjustment of status, but, rather, it is granted to eligible nationals of designated countries suffering the effects of an ongoing armed conflict, environmental disaster, or extraordinary and temporary conditions of designated countries, to live and work in the United States. During the period for which the Secretary of Homeland Security has designated a country for TPS, beneficiaries may not be removed from the United States and are authorized to engage in employment. When the Secretary terminates a country's designation, a TPS beneficiary will return to the status he/she had prior to TPS, provided the applicant maintained that status, or to any other status he/she may have obtained while registered for TPS.

While TPS may confer benefits that temporarily delay the alien's removal, the temporary benefits of TPS do not equate to "relief from removal;" nor do pending or previously filed TPS applications render an alien eligible for late registration under 8 C.F.R. § 244.2(f)(2).

The applicant has failed 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.

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.