



**U.S. Citizenship
and Immigration
Services**

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FILE:



[EAC06 301 85743]

Office: Vermont Service Center

Date:

JAN 02 2008

INRE:

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 (AAO) on appeal. The appeal will be sustained and the application will be approved.

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 failed to establish that she was eligible for late registration. The director also denied the application because the applicant failed to establish her **qualifying** continuous residence and continuous physical presence in the United States during the requisite time periods.

On appeal, the applicant asserts her eligibility for TPS and submits evidence in support of her claim.

Section 244(c) of the Act, and the related regulations in 8 c.P.R. § 244.2, provide that an applicant is eligible for TPS 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 § 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.

Persons applying for TPS offered to El Salvadorans must demonstrate continuous residence in the United States since February 13, 2001, and continuous physical presence 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 until September 9, 2008, upon the applicant's re-registration during the requisite time period.

The initial registration period for Salvadorans was from March 9, 2001, through September 9, 2002. The record reveals that the applicant filed her application with Citizenship and Immigration Services (CIS) on July 28, 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 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).

On December 19, 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). The applicant was also requested to submit evidence to establish her qualifying continuous residence and continuous physical presence in the United States. In response, the applicant submitted the following copies of documentation: her El Salvadoran birth certificate with an

English translation; her high school identification cards; her father's Employment Authorization Document (EADs); her immunization record; the birth certificate of her son born on December 10,2004; a letter from the Public Health Nurse of Benton County Health Unit dated December 15 2004' a letter dated January 9, 2007, from her landlord stating that the applicant had lived a from February 22, 2006; a letter **from** stating that the applicant attended Lincoln Junior High School from 2001 to 2004; a letter dated June 4, 2004, from Secretary of Bentonville High School, stating that the applicant attended Bentonville Public Schools from May 6, 1999 to April 13,2004; copies of her grade reports dated June 9, 2003, October 23, 2003, and January 8, 2004; and copies of certificates from Lincoln Junior High School.

The director determined that the applicant had failed to establish her qualifying continuous residence and continuous physical presence in the United States during the requisite time periods. The director also determined that the applicant failed to establish her eligibility for TPS late registration. Therefore, the director denied the application on February 13,2007.

On appeal, the applicant asserts her eligibility for TPS and provides the following documentation in support of her claim: copies of a previously submitted letter dated June 4, 2004, from ; a copy of a previously submitted letter **from** her school grade reports from the 2001, 2003 and 2004; copies of Eligibility Notifications dated January 12, 2005, from the Arkansas Department of Health; copies of medical and patient progress reports dated August 26, 2004, September 4, 2004, November 11, 2004, December 10,2004, January 13,2005; a copy of billing statement from Northwest Medical Center of Benton County, Arkansas dated February 14, 2005; copies of a letter dated December 23, 2004, from the Arkansas Medicaid Program; copies of her Arkansas Medicaid Program identification cards; and a copy of her 2006 Bentonville High School identification card.

The first issue in this proceeding is whether the applicant is eligible for late registration.

A review of the record of the applicant's father,), reflects he filed an application for asylum on March 16, 1995. He had withdrawn his application for asylum on March 12,2007, and he adjusted his status to lawful permanent resident. The applicant was listed as a dependent on his asylum application. The applicant filed her TPS application on July 28, 2006. Therefore, the applicant has established a qualifying relationship to be eligible for late registration as described in 8 C.F.R. § 244.2(f)(2). Therefore, the director's decision on this issue will be withdrawn.

The second issue in this proceeding is whether the applicant has established her continuous residence in the United States since February 13,2001, and her continuous physical presence in the United States since March 9, 2001, to the date of filing her application.

A review of the documentation contained in the record of proceedings reflects that the applicant has submitted sufficient evidence to establish her qualifying continuous residence in the United States since February 13,2001, and continuous physical presence since March 9, 2001, to the date of filing her application. Given that the record fails to reflect any other ineligibility issues, the director's decision to deny the current application will be withdrawn and the application will be approved.

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 met this burden.

ORDER: The appeal is sustained and the application is approved.