



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

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invasion of personal privacy**

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FILE: [REDACTED]
[EAC 05 203 80700]

Office: VERMONT SERVICE CENTER

Date: **JAN 222008**

INRE: 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:

[REDACTED]

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.

for 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 (AAO) on appeal. The appeal will be dismissed.

The applicant, who claims to be a native and citizen of El Salvador, is applying for 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 after determining that the applicant failed to establish her eligibility for late registration, and 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 nationality and identity.

On appeal, counsel for the applicant submits a brief statement.

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 Temporary Protected Status only if such alien establishes that 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
- (t) (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.

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 EI 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. The initial registration period for EI Salvadorans was from March 9, 2001, through September 9, 2002. The record reflects that the applicant filed her initial Form 1-821, Application for Temporary Protected Status, with Citizenship and Immigration Services (CIS) on April 27, 2005 - more than two years and seven months after the initial registration period had ended. The applicant submitted no documentary evidence in support of her application.

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 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 her burden of proof the applicant must provide supporting documentary evidence of eligibility apart from her own statements. 8 C.F.R. § 244.9(b).

The director denied the application on June 12, 2007, on the grounds that the applicant had failed to establish (1) her eligibility for late registration; (2) her continuous residence in the United States since February 13, 2001; (3) her continuous physical presence in the United States since March 9, 2001; and (4) her nationality and identity. The director noted that CIS records indicated that the applicant entered the United States on June 8, 2002, at which time she was detained by U.S. Customs, now Immigration and Customs Enforcement (ICE).

The applicant, through counsel, submitted her appeal from the director's decision on June 25, 2007. On appeal, counsel asserts that the applicant was not arrested on June 8, 2002, as CIS alleges, and that she entered the United States in January 2000. No evidence in support of the applicant's claim to TPS eligibility was submitted in support of the appeal.

The record confirms that the applicant filed her initial TPS application after the initial registration period had ended. The applicant has not submitted any evidence 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 application for this reason will be affirmed.

The applicant also has not submitted any evidence to establish her qualifying continuous residence in the United States since February 13, 2001, and continuous physical presence from March 9, 2001, to the date of filing her application on April 27, 2005. She has, therefore, failed to establish that she meets the eligibility criteria described in 8 C.F.R. §§ 244.2(b) and (c). Consequently, the director's decision to deny the application for these reasons will also be affirmed.

Furthermore, the applicant has not submitted sufficient any evidence to establish her nationality and identity under the provisions of 8 C.F.R. § 244.9(a)(1). Consequently, the director's decision to deny the application for this reason 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 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.