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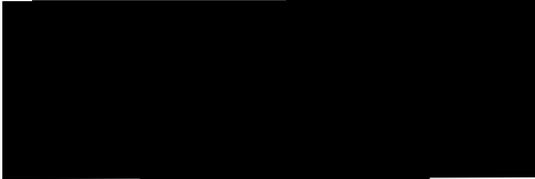
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U.S. Citizenship
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FILE:

Office: VERMONT SERVICE CENTER

Date: OCT 30 2008

[EAC 07 090 51372, *appeal*]

[EAC 06 285 90965]

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 Vermont Service Center. 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 on appeal. The appeal will be dismissed.

The applicant is a native and citizen of El Salvador who 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 because the applicant failed to respond to a Notice of Intent to Deny (NOID), dated November 22, 2006, which had requested that the applicant submit evidence of eligibility for late registration, nationality, and continuous residence during the required period.

On appeal, the applicant indicates that she did not receive the NOID dated November 22, 2006. She states that she entered the United States on July 20, 1999 and that she has been issued several employment authorization cards as a dependent of an asylum applicant. The applicant further states that she is trying to qualify for late registration for TPS because when she got married she lost her employment authorization status. She indicates that her mother and stepfather continue to have pending asylum applications with Citizenship and Immigration Services and forwards additional documentation in support of her claim of continuous physical presence and continuous residence during the qualifying period.

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 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.

To qualify for late registration, an applicant must provide evidence that during the initial registration period, he or 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).

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. The initial registration period for El Salvadorans was from March 9, 2001, through September 9, 2002. The record shows that the applicant filed her application with Citizenship and Immigration Services on July 10, 2006.

To qualify for late registration, an applicant must provide evidence that during the initial registration period, he or she fell within at least one of the provisions described in 8 C.F.R. § 244.2(f)(2) above.

The applicant's stepfather is [REDACTED]. Review of his record reflects that the Form I-589, Request for Asylum in the United States, that he signed on November 1, 1988 was received by CIS on November 16, 1988. In removal proceedings held "in absentia" on September 12, 1991, an Immigration Judge in Los Angeles, California, denied his request for asylum when he ordered him deported to El Salvador. The applicant's mother is [REDACTED]. Review of her mother's record reflects that on November 6, 1997, [REDACTED] requested that the applicant's mother be added to his request for political asylum. However, as detailed above, he could not have added the applicant's mother to his asylum request because his request had been extinguished on September 12, 1991. To confer eligibility for late initial registration to this applicant, a threshold requirement is that her mother or stepfather's Form I-589 would have had to have been pending during the initial registration period, and the applicant would have had to have been listed as a dependent on that pending application.

The applicant has submitted evidence in an attempt to establish her qualifying continuous residence and physical presence in the United States. However, this evidence does not mitigate the applicant's failure to file her

Application for Temporary Protected Status within the initial registration period. The applicant has not submitted evidence to establish that she has met the criteria for late registration described in the regulations at 8 C.F.R. § 244.2(f)(2). Consequently, the director's decision to deny the application for TPS is affirmed.

An alien applying for temporary protected status has the burden of proving that he or she meets the requirements cited 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.