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U.S. Department of Homeland Security
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Washington, DC 20529



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

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FILE:

[REDACTED]

Office: VERMONT SERVICE CENTER

Date: 7/17

[EAC 03 257 52669]

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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

for Robert P. Wiemann, Director
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 seeking Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. §1254.

The director determined that the applicant failed to establish that she was eligible for filing her TPS application after the initial registration period from March 9, 2001 through September 9, 2002. The director, therefore, denied the application.

On appeal, the applicant requests that her application be reviewed. The applicant also provides evidence in an attempt to establish continuous residence and continuous physical presence in the United States 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 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.

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.

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.

Persons applying for TPS offered to El Salvadorans must demonstrate entry on or prior to February 13, 2001, 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 by the Secretary of the Department of Homeland Security, with the latest granted until September 9, 2006, 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 initial application on September 12, 2003.

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 of proceeding confirms that the applicant filed her application after the initial registration period had closed. To qualify for late registration, the applicant must provide evidence that during the initial registration period from March 9, 2001 through September 9, 2002, she fell within the provisions described in 8 C.F.R. § 244.2(f)(2) (listed above). If the qualifying condition or application has expired or been terminated, the individual must file within a 60-day period immediately following the expiration or termination of the qualifying condition in order to be considered for the late initial registration. 8 C.F.R. § 244.2(g).

On October 16, 2003, the applicant was provided the opportunity 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 her continuous physical presence in the United States from March 9, 2001 to the date of filing the application. The applicant, in response, provided evidence in an attempt to establish continuous residence and continuous physical presence during the qualifying period. She did not present evidence of her eligibility for late registration. Therefore, the director denied the application.

On appeal, the applicant asks that the application be reviewed. According to the applicant, she did not register during the initial registration period because she did not have enough money. The applicant also submits the following:

1. A copy of her husband's Employment Authorization card.
2. A copy of the applicant's Certificate of Marriage indicating a date of Marriage of December 28, 2002.
3. Statements from [REDACTED] and her husband, [REDACTED].
4. A copy of a birth certificate report from Massachusetts General Hospital showing the applicant gave birth on February 22, 2004.
5. A copy of the applicant's Form I-94, Arrival-Departure Record, issued on November 28, 2000 valid until May 27, 2001 and an airline ticket for a flight from San Salvador, El Salvador to Boston, Massachusetts dated November 28, 2000.
6. A copy of the applicant's treatment report from East Boston Neighborhood Health Center showing treatment beginning on November 23, 2002.
7. A copy of a Basic Computer Skills Course certificate dated June 28, 2001.

The applicant submits evidence that she is married and that her husband is a TPS-eligible alien. However, in order to establish eligibility for late initial registration as the spouse of an alien who is eligible for TPS, the applicant must have been married during the initial registration period from March 9, 2001 through September 9, 2002. The applicant was not married until December 28, 2002, which is after the initial registration period. Therefore, the applicant does not gain eligibility for late registration through her marriage.

In addition, the Form I-94 and airline ticket establish the applicant was admitted to the United States as a B-2 nonimmigrant visitor on November 28, 2000, and was authorized to remain in the United States until May 27, 2001. While the applicant's nonimmigrant status technically rendered her eligible for late registration, regulations at 8 C.F.R. § 244(g) also require a late registration to be filed within a 60-day period immediately following the expiration or termination of conditions described in 9 C.F.R. § 244.2(f)(2). The applicant's 60-day period for late registration expired on July 26, 2001, during the initial registration period. The applicant filed her TPS application on September 12, 2003, more than 2 years after the end of the registration period and her 60-day period for late registration.

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 temporary protected status will be affirmed.

Beyond the decision of the director, it is noted that the applicant has provided insufficient evidence to establish her qualifying continuous residence or continuous physical presence during the requisite time periods. [REDACTED] states that the applicant has resided in the United States since before February 13, 2001. [REDACTED] states that his company manages the property at [REDACTED].

that the applicant has been his tenant in Apt. 1, since November 2000. [REDACTED] also states that the applicant has lived in his building at [REDACTED]. The applicant's husband states that the applicant has lived in this [REDACTED]. However, none of these statements are supported by any corroborative evidence. It is reasonable to expect that the applicant would have some type of contemporaneous evidence to support these assertions; however, no such evidence has been provided. Affidavits are not, by themselves, persuasive evidence of residence or physical presence. Moreover, affidavits are only specifically listed as acceptable evidence for proof of employment, and attestations by churches, unions, or other organizations of the applicant's residence as described in 8 C.F.R. §244.9(2)(i) and (v).

In addition, in his statement, [REDACTED] Director of Training and Development for [REDACTED] states that his company has employed the applicant since 2001. [REDACTED] states that the applicant has been a member of his parish since November 2000. These statements, however, have little evidentiary weight or probative value as they do not provide basic information that is expressly required by 8 C.F.R. § 244.9(a)(2)(i) and C.F.R. § 244.9(a)(2)(v) respectively. Specifically [REDACTED] does not provide the exact period(s) of her employment. It is further noted that the affiant did not indicate the applicant's duties with the company. [REDACTED] does not explain the origin of the information to which he attests, nor does he provide information on how he knows the applicant. The remaining evidence is subsequent to the dates required to establish entry, continuous residence and continuous physical presence during the qualifying period. It is therefore of little or no probative value. The applicant has not established that she has met the continuous residence and continuous physical presence requirements for TPS. Therefore, the application must be denied for these reasons as well.

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.