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U.S. Citizenship  
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Services

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FILE: [REDACTED]  
[LIN 03 245 50012]

Office: NEBRASKA SERVICE CENTER

Date: **AUG 05 2005**

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.

for Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, Nebraska 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 she: 1) had been continuously physically present in the United States since March 9, 2001; and 2) was eligible for late registration. In addition, the director determined that the applicant failed to submit a copy of current photo identification and a copy of her birth certificate or passport. The director, therefore, denied the application.

On appeal, the applicant states that she did file during the registration period and that this is her third time applying for TPS. 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.

*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.

*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 extension 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 this application on August 13, 2003.

It is noted that the applicant did file an initial TPS application on November 18, 2002. That application was also denied because the applicant failed to establish she had continuously resided in the United States since February 13, 2001; had been continuously physically present in the United States since March 9, 2001; and was eligible for late registration. The applicant did not appeal that decision.

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

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 September 17, 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 physical presence in the United States from March 9, 2001, to the filing date of the application. In addition, the applicant was requested to provide photo identification and a copy of her birth certificate or passport. The applicant failed to respond to the notice. Therefore, the director denied the application.

On appeal, the applicant states that she did file an application during the first period and that this is her third time applying for TPS. The applicant also resubmits evidence in an attempt to establish her continuous residence and physical presence in the United States during the qualifying period. However, this does not mitigate the applicant's failure to file her TPS application within the initial registration period. The applicant has not submitted any evidence to establish that he has met any of the criteria for late registration described in 8 C.F.R. § 244.2(f)(2). Consequently, the director's conclusion that the applicant failed to establish his eligibility for late registration will be affirmed.

The second issue in this proceeding is whether the applicant has established her continuous physical presence in the United States since March 9, 2001.

As stated above, the applicant was requested on September 17, 2003 to submit evidence establishing her continuous physical presence in the United States. The applicant failed to respond to the notice.

The director concluded that the applicant had failed to establish his qualifying residence and physical presence in the United States during the requisite periods and denied the application. On appeal, the applicant submits:

1. A copy of an information sheet regarding TPS.
2. A copy of a 2001 Internal Revenue Form W-2, Wage and Tax Statement.
3. Copies of a Certificate of Child Health Examination for the applicant's child dated June 5, 1998, and a copy of the Illinois Department of Public Health vaccination record for the applicant's child dated October 12, 2000.
4. Copies of currency exchange receipts dated February 23, 2001.
5. Copies of earnings statements from A.J. Antunes & Co., dated January 5, 2001, January 12, 2001, January 26, 2001, and February 9, 2001.
6. Copies of CIS Form I-797C Receipt Notices dated November 26, 2002 and August 15, 2003 and U.S. Postal service Domestic Return Receipts dated November 18, 2002, March 13, 2003, July 21, 2003, and a receipt with an unreadable date.

The medical records regarding the applicant's children fail to establish that the applicant was present in the United States during the qualifying period. The Form W-2 indicates the applicant was present in the United States in 2001, and the remaining evidence indicates the applicant was present in the United States in January and February 2001. However, this evidence does not establish that the applicant was continuously physically present in the United States from March 9, 2001 to the date he filed his TPS application. The applicant has not submitted sufficient evidence to establish his qualifying continuous physical presence in the United States during the periods

from March 9, 2001. He has, therefore, failed to establish that he has met the criteria described in 8 C.F.R. § 244.2(c). Consequently, the director's decision to deny the application for temporary protected status on this ground will also be affirmed. It is noted that the record contains a copy of the applicant's personal identification from El Salvador with a picture. Therefore, the applicant's identification and nationality has been established.

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.