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U.S. Citizenship
and Immigration
Services

MI

FILE:

[REDACTED]
[EAC 03 239 55836]

Office: VERMONT SERVICE CENTER

Date: **AUG 16 2005**

IN RE:

Applicant: [REDACTED]

APPLICATION:

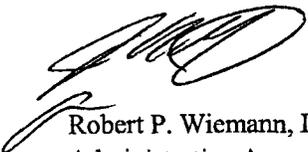
Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

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.


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 (AAO) 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 after determining that the applicant had failed to establish she is eligible for late registration under the provisions of 8 C.F.R. § 244.2(f)(2). The director also 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.

On appeal, the applicant submits a brief statement and additional documentation.

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 parole; 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. The initial registration period for El Salvadorans was from March 9, 2001, through September 9, 2002. The record reflects that the applicant filed her initial TPS application with Citizenship and Immigration Services (CIS) on August 6, 2003, more than ten months after the initial registration period had ended.

To qualify for late registration, the applicant must provide evidence that during the initial registration period, he or she was either in a valid immigration status, had an application pending for relief from removal, was a parolee, or was the spouse or child of an alien currently eligible to be a TPS registrant, and had filed an application for late registration within 60 days of the expiration or termination of the conditions described in 8 C.F.R. § 244.2(f)(2).

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).

In support of her initial Form I-821, the applicant submitted:

1. A photocopy of the identification page of her El Salvadoran passport, issued in Washington, D.C., on March 7, 2003;

2. A photocopy of an abstract of her El Salvadoran birth certificate, with English translation, issued in El Salvador on February 25, 2003; and,
3. A photocopy of her El Salvadoran personal identification card (*cédula*).

On October 2, 2003, the director requested the applicant to submit evidence to establish her qualifying continuous residence and continuous physical presence in the United States during the requisite time periods. The director also requested the applicant to submit evidence to establish her eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2). In response, the applicant submitted:

4. An affidavit, dated October 15, 2003, from her brother, [REDACTED] stating that the applicant arrived in the United States on or about January 15, 2001;
5. An affidavit, dated October 15, 2003, from [REDACTED] Columbia, Maryland, stating that the applicant had been a member of his congregation since January 20, 2001;
6. A photocopy of an earnings statement from Federal Cleaning Contractors, Inc., Northbrook, Illinois, for the two-week pay period ending on April 28, 2002; and,
7. A photocopy of an Internal Revenue Service (IRS) Form W-7, Application for IRS Individual Taxpayer Identification Number, for [REDACTED] signed by the applicant as parent, dated March 11, 2002.

The director determined that the evidence submitted was insufficient to establish that the applicant had continuously resided in the United States since February 13, 2001, and had been continuously physically present in the United States since March 9, 2001. The director also determined that the applicant had failed to establish that she was eligible for late registration. The director denied the application on April 1, 2004.

On appeal, the applicant submits the following additional documentation:

8. A photocopy of an IRS Form W-7 for [REDACTED] signed by the applicant as parent, dated March 11, 2002;
9. Photocopies of envelopes addressed to the applicant in Baltimore, Maryland, postmarked April 10, 2001, and May 10, 2001; and,
10. A second affidavit from her brother, also dated October 15, 2003.

The applicant claims to have lived in the United States since January 15, 2001. It is reasonable to expect that she would have a variety of contemporaneous evidence to support this claim. Affidavits from the applicant's brother are not, by themselves, persuasive evidence of residence or physical presence. Furthermore, the affidavit from [REDACTED] has little evidentiary weight or probative value as it does not include corroborative evidence to establish the specific date that the applicant was officially registered as a parishioner at his church.

It is noted that at the time of filing her initial TPS application, the applicant indicated that she was single and had never before used a Social Security number. However, No. 6, above, lists her status as married, using social Security number [REDACTED]. These discrepancies have not been explained and call into question the

applicant's ability to document the requirements under the statute and regulations. Doubt cast on any aspect of the evidence as submitted may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. It is incumbent on the petitioner to resolve any inconsistencies in the record by independent objective evidence; any attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582. (Comm. 1988).

It is concluded that the applicant has not submitted sufficient credible evidence to establish her qualifying continuous residence and continuous physical presence in the United States during the requisite time periods. She has, therefore, failed to establish that she meets the 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 be affirmed.

Furthermore, the record confirms that the applicant filed her initial TPS application after the initial registration period had closed. Although the applicant has submitted evidence in an attempt to establish her residence and physical presence in the United States, this evidence does not mitigate the applicant's failure to file her Form I-821 within the initial registration period. 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 for this reason will also be affirmed.

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.