

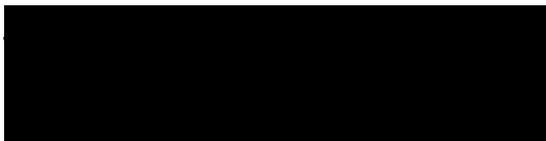
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U.S. Department of Homeland Security  
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U.S. Citizenship  
and Immigration  
Services

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MI

FILE: [REDACTED]  
[EAC 03 073 52737]

Office: VERMONT SERVICE CENTER

Date: JUL 28 2006

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 "R. Wiemann".

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 seeking 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 establish she was eligible for late registration. The director also found 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 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 § 244.3;
- (e) Is not ineligible under § 244.4; and
- (f)
  - (1) Registers for Temporary Protected Status 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.

The phrase brief, casual, and innocent absence, as defined in 8 C.F.R. § 244.1, means a departure from the United States that satisfies the following criteria:

- (1) Each such absence was of short duration and reasonably calculated to accomplish the purpose(s) for the absence;
- (2) The absence was not the result of an order of deportation, an order of voluntary departure, or an administrative grant of voluntary departure without the institution of deportation proceedings; and
- (3) The purposes for the absence from the United States or actions while outside of the United States were not contrary to law.

Persons applying for TPS offered to El Salvadorans must demonstrate continuous residence in the United States since February 13, 2001, and continuous physical presence 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 Form I-821, Application for Temporary Protected Status, with the Immigration and Naturalization Service (INS), now Citizenship and Immigration Services (CIS), on November 12, 2002.

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

In support of her initial TPS application, the applicant submitted documentation indicating her presence in the United States from April 2002 to August 2002. She also submitted documentation indicating that her claimed father, [REDACTED] had been issued an Employment Authorization Document, valid from September 14, 2001 to September 9, 2002.

On September 24, 2003, the director 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). The applicant was also requested to submit evidence to establish her qualifying continuous residence and continuous physical presence in the United States during the requisite time periods. In response, the applicant submitted an affidavit from her uncle, documentation concerning her presence in the United States in 2002 and 2003, a photocopy of the identification page from her El Salvadoran passport, and a document indicating that she had made payments for medical services received on December 10, 2000.

The director denied the application because it was filed outside of the initial registration period and the applicant had failed to establish her eligibility for filing under the provisions of late registration. The director also found that the applicant had failed to submit sufficient evidence to establish her qualifying continuous residence in the United States since February 13, 2001, and continuous physical presence since March 9, 2001.

On appeal, the applicant submits photocopies of a prescription blank with a hand-written date of February 24, 2001, an appointment notice with a hand-written date of March 30 (the year is not noted), and an invoice with a hand-written date of December 12, 2000.

The first issue to be addressed in this proceeding is whether the applicant has established that she is eligible for late registration.

A review of the alien registration file relating to the applicant's claimed father, [REDACTED] reflects that his initial TPS application was approved on August 10, 2001, and that his most recently filed application for annual re-registration for TPS was approved on February 2, 2004. At the time of filing his initial TPS application and when filing for annual re-registration for TPS [REDACTED] indicated on his applications that he was single, never married, and had no children.

CIS regulations allow the child of an alien currently eligible to be a TPS registrant to file an application after the initial registration period. In pertinent part, Section 101(b)(1) of the Act defines the term "child" as an unmarried person under twenty-one years of age who is:

- (A) a child born in wedlock; . . .
- (D) a child born out of wedlock, by, through whom, or on whose behalf a status, privilege, or benefit is sought by virtue of the relationship of the child to its natural mother or to its natural father if the father has or had a bona fide parent-child relationship with the person; . . .

The evidence of record reveals that the applicant, who was born in El Salvador on August 2, 1984, was under the age of twenty-one years throughout the initial registration period from March 9, 2001 to September 9, 2002, and at the time that she filed her initial TPS application on November 12, 2002. However, there is no evidence contained in the record to establish that the applicant was born in wedlock, or that her father has had a bona fide parent-child relationship with the applicant.

It is concluded that the applicant has not submitted sufficient evidence to establish that she has met the criteria described in 8 C.F.R. § 244.2(f)(2)(iv). Consequently, the director's decision to deny the application for failure to establish that she is eligible for late registration will be affirmed.

The second issue to be addressed in this proceeding is whether the applicant has established her qualifying continuous residence and continuous physical presence in the United States during the requisite time periods.

The applicant claims to have lived in the United States since November 2000. It is reasonable to assume that she would have a variety of contemporaneous evidence to support this claim. The documentation submitted by the applicant is dated December 2000, February 2001, April through August 2002. She has not submitted any documentation for February 2001 through March 2002.

Based on a review of the documentation submitted, it is concluded that the applicant has not submitted sufficient evidence to establish her qualifying continuous residence in the United States since February 13, 2001, and continuous physical presence since March 9, 2001, to the date of filing her application on November 12, 2002. Consequently, the director's decision to deny the application for temporary protected status on these grounds 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. With regard to her eligibility for late registration, the applicant has failed to meet this burden.

**ORDER:** The appeal is dismissed.