



U.S. Citizenship
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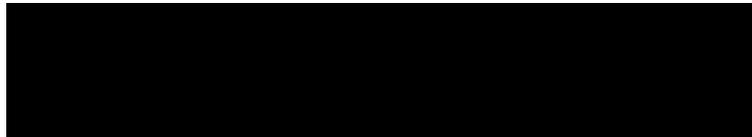
Office: VERMONT SERVICE CENTER

Date: SEP 26 2006

[EAC 04 078 50665]

IN RE:

Applicant:

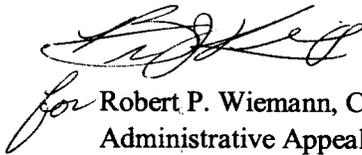


APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

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 office that originally decided your case. Any further inquiry must be made to that office.



for 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 stated to be 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 failed to establish she had continuously resided in the United States since February 13, 2001 and been continuously physically present in the United States since March 9, 2001. The director then determined the applicant had not submitted photo identification or any national identity document from her country of origin to establish that she is a citizen or national of El Salvador.

On appeal, the applicant states that she has been residing in the United States since before March 9, 2001, that she has a son who was born in this country and that she has not been accused of nor has she committed any crimes.

Section 244(c) of the Act, and the related regulations at 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 TPS only if such alien establishes that he or she:

- (a) Is a national of a 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 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.

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. An extension of the TPS designation has been granted with validity until September 9, 2007, upon the applicant's re-registration during the requisite time period.

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).

Upon initial submission and in response to a Notice of Intent to Deny dated March 17, 2004, the applicant provided the following documentation:

1. A copy of her son's State of Maryland birth certificate showing that he was born in Anne Arundel, Maryland on June 11, 2003.
2. An affidavit dated March 25, 2004 [REDACTED] indicating that the applicant arrived in the United States on or about February 10, 2001, and that since her arrival she has been residing with her.

3. A letter dated April 2, 2004 [REDACTED] indicating he has know the applicant since February of 2001, and that he has tutored her in English at the home of the applicant's sister and brother-in-law.
4. A letter dated April 2, 2004 from [REDACTED] indicating that he has known the applicant since February 2001 because she cleaned his residence on an occasional basis.
5. A letter from [REDACTED] indicating the applicant has been attending evening English classes sponsored by the company since March 1, 2002.

The director determined that the applicant had failed to submit sufficient evidence to establish her eligibility for TPS and denied the application on June 14, 2004.

On appeal, the applicant reasserts her claim and resubmits the above listed affidavit and letters.

Affidavits and letters from acquaintances are not, by themselves, persuasive evidence of continuous residence or continuous physical presence. It is determined that the applicant has not submitted sufficient evidence to establish her continuous residence or continuous physical presence in the United States during the period from February 13, 2001, until her son's birth in June 11, 2003. She has, thereby, failed to establish that she has met the criteria described in 8 C.F.R. §§ 244.2(b) and (c). Consequently, the director's decision to deny the application for TPS will be affirmed.

The applicant has provided a copy of her birth certificate along with an English translation. However, a birth certificate alone does not establish nationality. The record does not contain any photo identification such as a passport or national identity document. 8 C.F.R. § 244.2(a)(1). Therefore, the director's decision to deny the application is affirmed for this additional reason.

Upon initial submission, the applicant stated that she had previously filed for TPS in July 2002 and had re-registered to renew her eligibility in August 2003. However, the record contains no evidence to establish that these applications were ever filed. The director determined that the applicant had failed to establish she was eligible for late registration when she denied the application on June 14, 2004. On appeal, the applicant resubmitted documentation to establish her continuous residence and continuous physical presence in the United States.

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 any 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.

The applicant has provided a copy of her birth certificate along with an English translation. However, a birth certificate alone does not establish nationality. The record does not contain any photo identification such as a passport or national identity document. 8 C.F.R. § 244.2(a)(1). Therefore, the director's decision to deny the application is affirmed for this additional reason.

The application will be denied for the above stated reasons, with each considered as an independent and alternative basis for denial. An alien applying for TPS 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.