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U.S. Citizenship
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FILE: [REDACTED]
[EAC 05 147 71984]

OFFICE: Vermont Service Center

DATE: **AUG 24 2007**

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, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Vermont Service Center (VSC). It is now on appeal before the Administrative Appeals Office (AAO). The appeal will be dismissed.

The applicant claims to be a 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 on the grounds that the applicant failed to submit a photo identity document, failed to establish that she was continuously resident and physically present in the United States for the required periods of time, and failed to establish that she is eligible for late TPS registration.

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 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.

El Salvadoran nationals applying for TPS 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 reveals that the applicant filed her initial TPS application with Citizenship and Immigration Services (CIS) on January 31, 2005 – nearly two and one-half years after the close of the initial registration period.

To qualify for late registration, the applicant must provide evidence that during the initial registration period she satisfied at least one of the criteria enumerated in 8 C.F.R. § 244.2(f)(2) above.

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. *See* 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. *See* 8 C.F.R. § 244.9(b).

On June 7, 2006, the applicant was requested to submit evidence establishing her eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2), evidence of her El Salvadoran citizenship and a photo identity document, 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 her TPS application was filed. In response the applicant – who claims to have entered the United States without inspection on January 15, 2001 – submitted a series of documents dated between August and December 2001. These materials supplemented, and to an extent duplicated, medical documents dating from December 2001 to 2005, submitted previously with her TPS application, which related to the applicant's pregnancy and childcare following the birth of her son in Los Angeles, California, in June 2002.

On September 11, 2006, the director denied the application on the grounds that the applicant did not submit the requested photo identification document, failed to establish her eligibility for late TPS registration, and failed to establish her continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States from March 9, 2001, to the filing date of her TPS application.

On appeal the applicant submits two sworn statements from individuals in Los Angeles and Van Nuys, California, who state that they have known the applicant since January 2001. The applicant does not address the issue of her late filing for TPS or the previously requested photo identity document.

Thus, the record still contains no evidence that the applicant – who filed her TPS application nearly two and a half years after the close of the initial registration period for El Salvadoran nationals – is eligible for late registration under any of the criteria enumerated in 8 C.F.R. § 244.2(f)(2). Nor has the applicant submitted a photo identity document, such as a copy of her passport or national identity card, as requested by the director. As for the evidence of her residence and physical presence in the United States, none of the documentation submitted by the applicant dates prior to August 2001. Hence, it does not show that she has been a continuous resident of the United States since February 13, 2001, and continuously physically present in the United States since March 9, 2001. As for the two statements submitted on appeal, which supplement a similar statement from another Los Angeles resident submitted earlier in the proceedings – all of which assert that the applicant has lived in the United States since January 2001 – they are not supported by contemporaneous documentation and are not persuasive evidence, by themselves, of the applicant's residence and physical presence in the United States from January 2001 onward. Thus, the applicant has not established her continuous physical presence in the United States since March 9, 1991, and continuous residence in the United States since February 13, 2001, as required for TPS applicants from El Salvador under 8 C.F.R. § 244.2(b) and (c).

In accordance with the foregoing analysis, the director's denial of the application will be affirmed on all grounds.

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 that burden.

ORDER: The appeal is dismissed.