



U.S. Citizenship
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FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER
[WAC 05 270 70624 as it pertains to SRC 01 196 57000]

Date: FEB 28 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 California Service Center. Any further inquiry must be made to that office.

Cindy N. Gomez
for
Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The initial application was denied by the Director, Texas Service Center (TSC). A subsequent application for re-registration was denied by the Director, California Service Center, and is currently before the Administrative Appeals Office (AAO) on appeal. The case will be *sua sponte* reopened, the appeal will be sustained and the application will be approved.

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 applicant filed an initial application for TPS under receipt SRC 01 196 57000 which was denied by the director on March 19, 2004, because the applicant had abandoned her application by failing to respond to a Notice of Intent to Deny (NOID) requesting her to provide evidence that she met the continuous residence and continuous physical presence requirements for TPS.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on June 26, 2005, and indicated that she was re-registering for TPS.

The director denied the re-registration application because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS.

If the applicant is filing an application as a re-registration, a previous grant of TPS must have been afforded the applicant, as only those individuals who are granted TPS must register annually. In addition, the applicant must continue to maintain the conditions of eligibility. 8 C.F.R. § 244.17.

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 Salvadorans was from March 9, 2001, through September 9, 2002. Subsequent extensions of the TPS designation have been granted with the most recent extension valid 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).

With her application, the applicant submitted:

1. A copy of her ninth grade report card from the Irving Independent School District in Irving, Texas, for the school year 2000-2001, showing that she successfully completed the first three terms of the first semester and the first two terms of the second semester.

On appeal, the applicant submits:

2. Another copy of her ninth grade report card from the Irving Independent School District for the school year 2000-2001, showing that she successfully completed the first three terms of the first semester and the first three terms of the second semester.
3. A copy of her State of Texas Academic Achievement Record dated June 14, 2004, showing that she entered [REDACTED] in Irving, Texas, on August 9, 2000, in the ninth grade and that she attended and graduated from that school on June 5, 2004.
4. A copy of her [REDACTED] identification card for the 2000-01 school year.
5. A copy of her IRS Form 1040EZ, U.S. Income Tax Return for Single and Joint Filers With No Dependents, for 2002.
6. Copies of her IRS Form W-2 Wage and Tax Statement, from United Thrift Management, Inc. in Birmingham Alabama, for 2002, and from [REDACTED] for 2004.
7. Copies of her Irving Independent School District immunization card dated September 5, 2000, and Personal Immunization Record certificates from the Dallas County Department of Health and Human Services dated January 4, 2000, and March 6, 2000.

The applicant has satisfied the continuous residence and continuous physical presence requirements and all other eligibility requirements for TPS. Therefore, the application is approved.

The director's denial of the application for re-registration or renewal is dependent upon the adjudication of the initial application. Since the initial application is being approved, the appeal from the denial of the re-registration will be sustained and that application will also be approved.

An alien applying for temporary protected status has the burden of proving that he or she meets the above requirements and is eligible under the provisions of section 244 of the Act. The applicant has met this burden.

ORDER: The appeal is sustained. The application is reopened and the director's denial of the initial application is withdrawn. The initial application and the re-registration application are both approved.