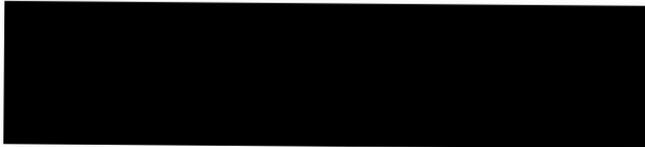


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**U.S. Citizenship
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Services**

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prevent clearly unwarranted
invasion of personal privacy



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FILE:



OFFICE: CALIFORNIA SERVICE CENTER

DATE **MAY 21 2007**

[WAC 05 106 76788]

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.

A handwritten signature in black ink, appearing to read "R. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, California Service Center, and is now before the Administrative Appeals Office 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 had failed to establish that she: (1) was eligible for late registration; and (2) had continuously resided in the United States since February 13, 2001, and had been continuously physically present from March 9, 2001, to the date of filing the application.

On appeal, the applicant submits additional evidence, including evidence previously furnished and contained in the record.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an alien 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 § 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 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 condition described in paragraph (f)(2) of this section.

The term *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 term *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.

Persons applying for TPS offered to El Salvadorans must demonstrate that they have continuously resided in the United States since February 13, 2001, and that they have been continuously physically present in the United States since March 9, 2001. On July 9, 2002, the Attorney General announced an extension of the TPS designation until September 9, 2003. Subsequent extensions of the TPS designation have been granted, with the latest extension valid until September 9, 2007, upon the applicant's re-registration during the requisite time period.

The initial registration period for El Salvadorans was from March 9, 2001, through September 9, 2002. The record shows that the applicant filed her initial application on January 14, 2005 .

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).

The first issue in this proceeding is whether the applicant is eligible for late registration.

The record of proceeding confirms that the applicant filed her application after the initial registration period had closed. To qualify for late registration, the applicant must provide evidence that during the initial registration period she fell within at least one of the provisions described in 8 C.F.R. § 244.2(f)(2) above.

In a Notice of Intent to Deny (NOID) dated May 4, 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). The applicant was also requested to submit evidence to establish continuous residence in the United States since February 13, 2001, and continuous physical presence from March 9, 2001, to the date of filing the application. The director noted that the evidence furnished in response to the NOID was insufficient to establish eligibility for late registration and to establish residence and physical presence during the qualifying periods. The director, therefore, denied the application on July 5, 2006.

On appeal, the applicant neither addressed nor 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 on this ground will be affirmed.

The next issue in this proceeding is whether the applicant has established her continuous residence in the United States since February 13, 2001, and continuous physical presence from March 9, 2001, to the date of filing the TPS application.

The applicant claimed to have entered the United States on November 18, 1992. In support of her application, the applicant submitted a copy of an El Salvadoran passport issued to the applicant at Santa Ana, California, on August 21, 2003, and a copy of her El Salvadoran birth certificate with English translation. The applicant also submitted:

1. Copies of State of Arizona birth certificates of the applicant's two sons born on March 19, 1996 and July 14, 1997.
2. Copies of pay statements, money transfers, billing statements dated during the years 1995, 1996, 1997.
3. Copies of statements from four individuals written in the Spanish language but was not accompanied by English translation as required by 8 C.F.R. § 103.2(b)(3).
4. A copy of a billing statement dated October 27, 2004.

In a Notice of Intent to Deny dated May 4, 2006, the applicant was requested to submit additional evidence establishing her qualifying continuous residence and continuous physical presence in the United States. In response, the applicant submitted:

5. A letter dated May 12, 2006, from [REDACTED] indicating that he has known the applicant and her family for about 4 years. [It appears that Mr. [REDACTED] had only known the applicant since 2002.] The applicant also submitted copies of statements from four additional individuals also written in the Spanish language without English translation.
6. Letters dated May 10, 2006, from [REDACTED] Phoenix, Arizona, indicating that the applicant's two sons were enrolled at the school from July 2001 to "end of year;" and letters from [REDACTED] Elementary School, Phoenix, Arizona, also indicating that the entry dates at that school for her two sons was August 8, 2005.
7. A copy of a purchase order dated July 28, 2005.

The director determined that the evidence furnished by the applicant was insufficient to establish continuous residence since February 13, 2001, and continuous physical presence from March 9, 2001, to the date of filing the TPS application, and denied the application on July 5, 2006.

On appeal, the applicant resubmits the evidence listed as Nos. 2, 5, 6, and 7 above. She also submits:

8. Statements from [REDACTED], and [REDACTED] all unsigned and also not notarized or attested to.
9. A copy of a Certificate of Outstanding Participation for the month of January 2001, issued to the applicant by the [REDACTED] Preschool.
10. Copies of money transfer receipts and purchase receipts dated December 14, 2002; July 20, 2003; November 17, 2003; April 5, 2004; and December 13, 2004.

Although evidence furnished indicates that the applicant was present in the United States prior to February 2001, the record contains insufficient evidence of the applicant's continuous residence and continuous physical presence from February 13, 2001 to July 2001, and also contains very minimal evidence from August 2001 to the date of filing the application on January 14, 2005. Additionally, as previously noted, the statements from

individuals provided to establish the applicant's qualifying residence in the United States are not notarized, some are not translated, and are not supported by any other corroborative evidence.

Accordingly, the applicant has failed to establish that she has met the criteria for continuous residence in the United States since February 13, 2001, and continuous physical presence since March 9, 2001, as described in 8 C.F.R. § 244.2(b) and (c). Consequently, the director's decision to deny the application on this ground will also be affirmed.

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 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.