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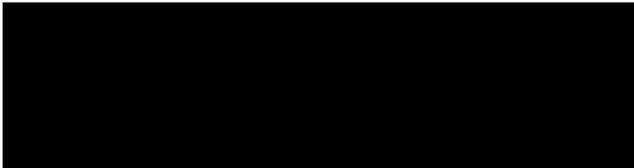
U.S. Department of Homeland Security
20 Massachusetts Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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FILE:



Office: California Service Center

Date:

MAY 29 2007

[WAC 05 223 89145]

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.

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 (AAO) on appeal. The appeal will be dismissed.

The applicant is stated 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 record reveals that the applicant filed a late initial TPS application on May 11, 2005, under CIS receipt number WAC 05 223 89145. The director denied the application on September 25, 2006, because the applicant failed to submit evidence to establish eligibility for late initial registration for TPS, her continuous residence in the United States, and her continuous physical presence, and her nationality and identity.

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 as 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 section 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 conditions described in paragraph (f)(2) of this section.

Continuously physically present 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.

Continuously resided 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.

Brief, casual, and innocent absence 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 Salvadorans was from March 9, 2001, through September 9, 2002. The record reveals that the applicant filed her TPS application with Citizenship and Immigration Services (CIS) on May 11, 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 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).

To qualify for late registration, the applicant must provide evidence that during the initial registration period, he/she was either in a valid immigration status, had an application pending for relief from removal, was a parolee, or was the spouse/child of an alien currently eligible to be a TPS registrant, and he/she 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).

With her TPS application, the applicant submitted photocopies of:-

- An El Salvador birth certificate with an English translation;
- Two pages of her El Salvador passport, including the biographic page;
- A photo Cedula, and an El Salvador student ID card;
- A reference letter, dated March 3, 2005, from Regional Manager of Urgente Express,
stating that the applicant has been using the company's services since January 2001;

- 4 Registration Forms from Evans Community Adult School, two dated 2004, and two in 2002, with a registration receipt and class schedule for classes in September 2004;
- A registration receipt, dated July 11, 2003, and class schedule for classes in September 2003;
- 2 untranslated receipts in Spanish, dated July 2, 2004, and September 30, 2004, respectively;
- A receipt from [REDACTED] dated January 30, 2004;
- An untranslated letter from [REDACTED], dated March 12, 2003;
- An earnings statement, dated October 9, 2003;
- An Application for MTA College/Vocational Student Identification Card, signed September 4, 2001;
- A money transfer receipt, dated November 12, 2003;
- An insurance billing statement, dated January 22, 2003;
- A credentials evaluation service summary of the applicant's college level work, dated October 15, 2002, indicating that the applicant completed a degree program at The University of El Salvador, San Salvador, El Salvador, in September 2001;
- A vehicle registration receipt, issued in 2003;
- An employment reference letter, dated February 4, 2002, from [REDACTED] President, Builders Unlimited, stating that the applicant worked with the company as a Secretary for a year and 8 months;
- A receipt for dental services on February 9, 2001, from American Smile Dental Laboratories;
- An employment reference letter, dated October 9, 2001, from [REDACTED], General Manager, Ceramex Industries, stating that the applicant worked with the company for five months;
- An AVS Electronics Purchase Order; and,
- A money transfer receipt, dated December 23, 2000.

On July 21, 2006, the applicant was provided the opportunity to submit evidence establishing her eligibility for TPS, including eligibility for late initial registration as set forth in 8 C.F.R. § 244.2(f)(2). In her response, the applicant submitted:-

- A reference letter from [REDACTED] of E. Manfred Evans Community Adult School, stating that she has known the applicant since 2000;
- A reference letter from [REDACTED] stating that she has known the applicant since December 2000;
- Urgente Express money transfer receipt transaction summary for transactions in 2003, 2004, 2005, and 2006;
- A reference letter from [REDACTED] stating that he has known the applicant since 2000, and that the applicant lived in his apartment from January 2001 to August 2002;
- A reference letter from [REDACTED] a Teacher at John Marshall High School, stating that the applicant was a community volunteer in a school project beginning in 2001;
- A reference letter from [REDACTED], of North Hollywood-Polytechnic Community Adult School, stating that the applicant enrolled at the school on April 25, 2002;
- A State of California High School Equivalency Certificate issued to the applicant;
- A Los Angeles United School District High School Diploma issued to the applicant, on June 30, 2006;
- 2 Tuition Statements, Form 1098-T, for the years 2003 and 2004;
- Student Attendance records from North Hollywood-Ploy Cas, indicating attendance from May 2002 to July 2002;
- A reference letter from [REDACTED], stating that he has known the applicant since 2001;
- A reference letter from [REDACTED] stating that he has known the applicant since 2001;

- Two Achievement Awards, dated June 24, 2002; and,
- A Certificate of Excellence, dated May 28, 2002.

On appeal, the applicant reasserts eligibility for TPS. With her appeal, in an attempt to establish her continuous residence in the United States, and her continuous physical presence, the applicant resubmits some of the same evidence earlier provided.

The first issue in this proceeding is whether the applicant has established her nationality and identity.

The record reflects that the applicant submitted a photocopy of the biographic page of her El Salvador passport, her national photo-identification card, and her El Salvador birth certificate (in Spanish), with an English translation. The applicant has submitted sufficient evidence to establish her nationality and identity. Accordingly, the director's decision to deny the application for this reason is withdrawn.

The second issue in this proceeding is whether the applicant is eligible for late initial registration for TPS.

The evidence of record does not mitigate the applicant's failure to file her Form I-821, Application for Temporary Protected Status, within the initial registration period. The applicant has failed to provide any evidence to establish that this application should be accepted as a late initial registration under 8 C.F.R. § 244.2(f)(2). Consequently, the director's decision to deny the application for this reason must be affirmed.

The next issue in this proceeding is whether the applicant has established the requisite continuous residence and continuous physical presence in the United States.

It is noted that the applicant stated on her initial Form I-821, Application for Temporary Protected Status, and on her initial Form I-765, that she entered the United States on November 20, 2000. However, the applicant submitted 1) a credential evaluation which states that the applicant completed a program at The University of El Salvador, in El Salvador, in September 2001; 2) an employment reference letter, dated February 4, 2002, from ██████████ President, Builders Unlimited, stating that the applicant worked with the company as a Secretary for a year and 8 months, which would have meant that the applicant began working there in July 2000; but, she did not claim that she entered the United States until November 2000; 3) a Purchase Order, from AVS Electronics, Inc., which appears altered as the delivery date is December 7, 2000, although the order date is July 12, 2003; 4) a receipt for dental services on February 9, 2001, from American Smile Dental Laboratories; and, 5) a photo Cedula, issued in El Salvador, on October 10, 2004. Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988). The applicant has failed to submit any objective evidence to explain or justify the discrepancies in the entry date in the record and her supporting evidence. Therefore, the reliability of the remaining evidence offered by the applicant is suspect and it must be concluded that the applicant has failed to establish her continuous residence and continuous physical presence in the United States during the requisite period. Therefore, the director's decision to deny the TPS application on these grounds is also 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.