



U.S. Citizenship
and Immigration
Services

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FILE:



OFFICE: California Service Center

DATE:

MAY 29 2007

[WAC 04 005 51417]

IN RE:

Applicant:



APPLICATION:

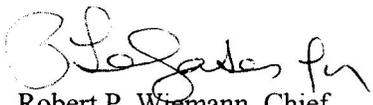
Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

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. It is now on appeal before the Administrative Appeals Office (AAO). The appeal will be dismissed.

The applicant is 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 ground that the applicant failed to establish that she was eligible for late TPS registration.

On appeal the applicant asserts that she submitted a timely application in September 2002 and requests that her case be reviewed.

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 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 that they have continuously resided in the United States since February 13, 2001, and that they have been continuously physically present since March 9, 2001. The initial registration period for El Salvadorans was from March 9, 2001, through September 9, 2002. The record shows that the applicant's initial Form I-821, Application for Temporary Protected Status, bears a receipt stamp of the California Service Center dated September 24, 2003 – one year after the end of the initial registration period.

To qualify for late registration, the applicant must provide evidence that during the initial registration period she met at least one of the conditions described 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 Citizenship and Immigration Services (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 March 5, 2004, the director requested the applicant, who claims to have entered the United States without inspection on January 1, 1999, to submit evidence that she was eligible for late TPS registration and met the continuous residence and continuous physical presence requirements for TPS applicants from El Salvador, as well as evidence of her identity. In response the applicant submitted some evidence pertaining to her residence and physical presence in the United States and her identity – including photocopies of some rental receipts in the applicant's name spanning the time frame of March 2001 to March 2004; pay statements in the applicant's name from the time frame of January to May 2001; federal income tax Forms 1099-MISC from the years 2000 – 2003;

a student membership card for the 2003-04 school year issued to the applicant by the Jefferson Community Adult School; a registration form in the applicant's name for a course at the Los Angeles County Unified School District, Division of Adult Education, dated March 22, 2004; and the applicant's El Salvadoran passport, issued by the Consul General in Los Angeles on March 9, 2004. No evidence was submitted to show that the applicant was eligible for late TPS registration.

On May 14, 2004, the director denied the application on the ground that it was filed on September 24, 2003 – a year after the close of the initial registration period for El Salvadoran nationals on September 9, 2002 – and the applicant failed to establish that she was eligible for late TPS registration under 8 C.F.R. § 244.2(f)(2).

On appeal the applicant asserts that she sent her Form I-821 to the California Service Center in September 2002, and as evidence thereof submits a photocopy of a certified mail receipt. The applicant requests that her application be reviewed. The certified mail receipt cited by the applicant, however, is dated September 13, 2003, not 2002. Thus, it does not demonstrate that the applicant submitted her TPS application, or any other materials, to the service center by the closing date of the initial registration period – September 9, 2002. Nor is there any evidence in the record that the applicant is eligible for late registration under any of the criteria enumerated at 8 C.F.R. § 244.2(f)(2).

Accordingly, the director's denial of the application on the ground that it was not filed during the initial registration period for El Salvadoran nationals and the applicant failed to establish that she was eligible for late TPS registration will be affirmed.

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.