



U.S. Citizenship
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[REDACTED]

FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: SEP 04 2007
[WAC 05 210 78959]

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, California Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The applicant claims to be 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 failed to establish that she was eligible for late registration. The director also found that the applicant had failed to establish her qualifying residence and physical presence in the United States during the requisite periods.

On appeal, the applicant asserts her claim of eligibility for TPS.

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.

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. A subsequent extension of the TPS designation has been granted with validity until March 9, 2009, 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 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 initial registration period for Salvadorans was from March 9, 2001, through September 9, 2002. The record reveals that the applicant filed her application with Citizenship and Immigration Services (CIS), on April 28, 2005.

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.

On July 24, 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 establishing her qualifying residence and physical presence in the United States. The applicant, in response, provided a copy of

her Texas marriage certificate dated February 14, 2005, a Declaration of Registration of Informal marriage dated August 9, 2006, and a photo of [REDACTED] employment authorization card dated November 6, 2003.

The director determined that the applicant had failed to establish that she was eligible for late registration and denied the application on October 2, 2006.

On appeal, the applicant states that she is eligible for late registration as a spouse of a TPS registrant, and that she and [REDACTED] have been husband and wife since 1989.

Contrary to the applicant's assertions, in reviewing [REDACTED] record of proceeding, it is noted that he indicated on his Form I-765, Application for Employment Authorization and his Form I-821, Application for Temporary Protective Status, dated April 11, 2001, Section 8 and Part 2 respectively, that he was single. Mr. [REDACTED] also indicated that he was single on his Form I-765, Application for Employment Authorization dated November 11, 2002, and September 8, 2003. 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 not 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 conclusion that the applicant had failed to establish her eligibility for late registration will be affirmed.

The second issue in this proceeding is whether the applicant has established her continuous residence in the United States since February 13, 2001, and her continuous physical presence in the United States since March 9, 2001.

As stated above, the applicant was requested on July 24, 2006, to submit evidence establishing her qualifying residence and physical presence in the United States. The applicant, in response, provided the following documentation:

1. An affidavit from [REDACTED] in which she stated that she has known the applicant since December 27, 2000;
2. An affidavit from [REDACTED] in which she stated that she has known the applicant since December of 2000;
3. An affidavit from [REDACTED] in which he stated that he has known the applicant since December 26, 2000;
4. An affidavit from [REDACTED] in which he stated that he has known the applicant since January 2, 2001;
5. An affidavit from [REDACTED] in which she stated that she has known the applicant since February 6, 2001; and,
6. An affidavit from [REDACTED] in which she stated that she has known the applicant since January 29, 2001.

The director determined that the applicant had failed to submit sufficient evidence to establish her eligibility for TPS and denied the application on October 2, 2006.

On appeal, the applicant reasserts her claim of eligibility for TPS and submits the following documentation:

7. A copy of the applicant's El Salvadoran passport dated October of 2006;
8. Copies of two untranslated El Salvadoran birth certificates;
9. A copy of a Texas birth certificate indicating that a boy child was born to the applicant on July 11, 2003;
10. Copies of other medical documents bearing the applicant's name and dated 2003;
11. Copies of apartment lease contracts bearing the applicant's name as tenant, and dated 2002 through 2005;
12. A copy of a personal immunization record bearing the applicant's name and dated December of 2002;
13. Copies of Western Union money receipts bearing the applicant's name and dated 2002 through 2004;
14. Copies of unsigned Internal Revenue Service (IRS) 1040 and W-2 tax forms in the name of [REDACTED] for the 2001 through 2005 tax years; and,
15. Copies of W-2 tax forms bearing the applicant's name as employee for the 2005 tax year.

The applicant has not submitted sufficient credible evidence to establish her qualifying continuous residence in the United States since February 13, 2001, and her continuous physical presence in the United States since March 9, 2001. The applicant submitted affidavits in an effort to establish her residence and physical presence in the United States during the requisite time periods. Although the affiants state in the affidavits that they have known the applicant to be present in the United States since December of 2000, there has been no corroborative evidence to substantiate their assertions. Moreover, affidavits are only specifically listed as acceptable evidence for proof of employment, and attestations by churches, unions, or other organizations of the applicant's residence as specifically described in 8 C.F.R. §244.9(a)(2)(i) and (v).

The copies of the Western Union money order receipts provided by the applicant are not supported by any other corroborative evidence. While 8 C.F.R. § 244.9(a)(2)(vi) specifically states that additional documents such as money order receipts "may" be accepted in support of the applicant's claim, the regulations do not suggest that such evidence alone is necessarily sufficient to establish the applicant's qualifying residence and physical presence in the United States. The applicant claims to have lived in the United States since December of 2000. It is reasonable to expect that the applicant would have some other type of contemporaneous evidence to support these receipts; however, no such evidence has been provided. The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. 8 C.F.R. § 244.9(b).

Although the IRS tax records belonging to [REDACTED] contain the applicant's name as spouse, they cannot be viewed as credible evidence of the applicant's presence in the United States. All other evidence submitted by the applicant is dated subsequent to the requisite time periods and is insufficient to establish her eligibility for TPS. There has been no evidence submitted to establish the applicant's presence in the United States in 2001. The applicant has failed to establish that she has met the continuous residence and continuous physical presence

criteria described in 8 C.F.R. § 244.2(b) and (c). Consequently, the director's decision to deny the application for TPS on these grounds will also 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 this burden. The application will be denied for the above reasons, with each considered as an independent and alternative basis for denial.

ORDER: The appeal is dismissed.