



U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED] OFFICE: Texas Service Center DATE: JAN 07 2008
[SRC 03 235 54309]
[EAC 07 119 52448 – motion]

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.

John H. Vaughan
for

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Texas Service Center (TSC). An appeal was dismissed by the Director, now Chief, Administrative Appeals Office (AAO). A motion to reopen was dismissed by the AAO. The matter is now before the AAO on another motion to reopen. The motion will be dismissed.

The applicant is a native and citizen of El Salvador who is applying for Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254.

The applicant filed her initial Form I-821, Application for Temporary Protected Status, at the TSC on August 25, 2003. The TSC director denied the application on January 13, 2004, because the applicant failed to establish her eligibility for TPS late registration. The director also indicated that the applicant failed to provide her birth certificate and had provided altered documents.

On February 13, 2004, the applicant filed an appeal, which was dismissed by the AAO on April 20, 2005, on the grounds that the applicant failed to establish her eligibility for TPS late registration as well as her qualifying continuous residence and continuous physical presence in the United States. The AAO also indicated that the applicant still had not submitted a copy of her birth certificate.

The applicant filed her first motion to reopen on May 3, 2005 [SRC 05 149 53067], which was dismissed by the AAO on March 5, 2007. The AAO affirmed its previous decision dated April 20, 2005.

In her second motion to reopen filed on March 26, 2007 [EAC 07 119 52448], the applicant asserts that she has lived in the United States since 2000 and submits additional documentation in support of that claim.

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 designated by the Attorney General is eligible for TPS 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.

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. On July 9, 2002, the Attorney General announced an extension of the TPS designation until September 9, 2003. Subsequent extensions of the TPS designation has been granted by the Secretary of the Department of Homeland Security, with validity until March 9, 2009, upon the applicant's re-registration during the requisite time period.

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 August 25, 2003, after the initial registration period had closed.

To qualify for late registration, the applicant must provide evidence that during the initial registration period she satisfied at least one of the provisions 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 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).

In her current motion the applicant asserts that she has lived in the United States since 2000. The applicant also submits the following additional evidence in an attempt to establish her eligibility for TPS: a copy of a bank statement from Bank of America for the period January 17, 2007 to February 12, 2007; copies of her report cards

from Miami-Dade County Public Schools for the period August 14, 2006 through December 21, 2006; copies of various pictures of her at school; copies of three undated award certificates from an elementary school; copies of three certificates for the school year 2005/2006; a copy of a Sacrament of Eucharist dated April 29, 2006; and a letter from the principal of the elementary school, dated December 28, 2006.

The applicant's motion to reopen consists of documentation relating to her claim of residence and physical presence in the United States. 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). Thus, this ground for denial of the application has not been overcome on motion.

Furthermore, the documentation submitted with the motion all post-dates the requisite starting dates for continuous residence (February 13, 2001) and continuous physical presence (March 9, 2001) in the United States, as required for TPS applicants from El Salvador under 8 C.F.R. § 244.2(b) and (c). The applicant has not submitted sufficient evidence to substantiate her claim that she has resided in the United States since 2000 and meets the eligibility criteria described in 8 C.F.R. § 244.2(b) and (c). Thus, these grounds for denial of the application have also not been overcome on motion.

The burden of proof in these proceedings rests solely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361. That burden has not been met since the applicant has not provided any new facts or additional evidence to overcome the previous decision of the AAO. Accordingly, the motion to reopen will be dismissed and the previous decision of the AAO will not be disturbed.

ORDER: The motion to reopen is dismissed. The previous decision of the AAO, dated March 5, 2007, is affirmed.