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U.S. Citizenship
and Immigration
Services

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FILE:

OFFICE: Vermont Service Center

Date:

JUL 11 2008

[EAC 03 242 53676 FORM I-821]

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 "Robert P. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Vermont Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

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

On appeal, the applicant asserts she is eligible for late registration as the spouse of an applicant currently eligible for TPS, and has established a qualifying residence and continuous physical presence during the required period.

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. Subsequent extensions of the TPS designation have been granted, with the latest extension valid 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 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 initial registration period for Salvadorans was from March 9, 2001, through September 9, 2002. The applicant filed an application during the initial registration period under receipt number EAC 02 005 50860. However, that application was denied on August 12, 2002, due to abandonment because the applicant failed to appear for a fingerprinting appointment. The record reveals that the applicant filed this application with Citizenship and Immigration Services (CIS) on August 11, 2003. 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 September 17, 2003, 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 continuous residence and continuous physical presence in the United States. The record does not indicate that the applicant responded.

The director determined that the applicant had failed to establish she was eligible for late registration and denied the application on May 4, 2006.

On appeal, the applicant asserts she is eligible for late registration because she is married to an alien currently eligible for TPS.

The record does not contain a valid marriage certificate indicating the date of marriage to her husband, upon whom her claim of eligibility is based. The applicant's first application for TPS stated that she was not married during the initial registration period. Other evidence in the record, such as a joint account statement submitted by the applicant, are not sufficiently probative or credible to establish the applicant's eligibility based on marriage to a TPS eligible alien. Thus, it cannot be determined from the record that the applicant is eligible for late registration based on the record. 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, or her continuous physical presence in the United States since March 9, 2001.

As stated above, the applicant was requested on September 17, 2003, to submit evidence establishing her qualifying continuous residence and continuous physical presence in the United States. The record does not indicate the applicant responded.

The director determined that the applicant had failed to submit sufficient evidence to establish her eligibility for TPS and denied the application on May 4, 2006.

On appeal, the applicant asserts she is eligible for TPS.

The applicant submitted her initial application on September 10, 2001. The AAO will accept a qualifying residence and continuous physical presence subsequent to that time, her qualifying residence and presence prior to that time are the period in question. The record contains the following documentation relevant to the period in question:

1. Letter, dated August 15, 2001, asserting the affiant has known the applicant since January of 2001.
2. Letter, dated August 2, 2001, from _____ asserting the applicant has lived with her since December of 2000. (Note: Notarized on August 27, 2001).
3. Bank account statement from December 12, 2001.

4. Letter, dated February 7, 2004, signed by [REDACTED] of the St. Mary of the Anunciation Rectory, asserting the applicant attended mass every Sunday since January of 2000.
5. Letter, dated May 13, 2006, signed by [REDACTED] Branch Manager, Bank of America, asserting the applicant's bank account was opened on November 16, 1998.
6. Letter, dated May 26, 2006, signed by [REDACTED], asserting the applicant lived with her from December of 2000 until February of 2001.

Even a cursory examination of the evidence reveals terminal inconsistencies. The letters at number 2 and 6 above contradict themselves by stating different periods in which the applicant lived with the affiant, and the affiant's different spelling of her name on each document raise doubts about the credibility of the letter. The letter from [REDACTED] at Bank of America states that the bank account was opened nearly two years prior to the applicant's own asserted date of arrival, leaving the AAO to believe that the account was opened in 1998 by the other account holder and that she was added at some point later. This letter is not sufficiently credible to warrant any consideration. Finally, the letter from [REDACTED] is not sufficiently probative to corroborate the applicant's assertions. The letter does not provide basic information that is expressly required by 8 C.F.R. § 244.9(a)(2)(v). Specifically, the pastor does not explain the origin of the information to which he attests, nor does he provide the address where the applicant resided during the period of his involvement with the church.

The evidence submitted by the applicant is clearly not credible, and therefore insufficient to establish her eligibility for TPS. Consequently, the director's decision to deny the application for TPS on these grounds 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 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.

ORDER: The appeal is dismissed.