

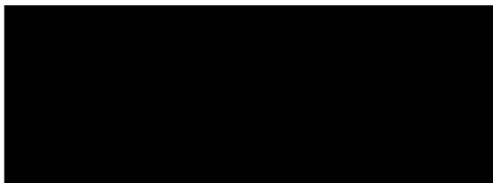
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U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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FILE:

Office: VERMONT SERVICE CENTER

Date: MAR 11 2008

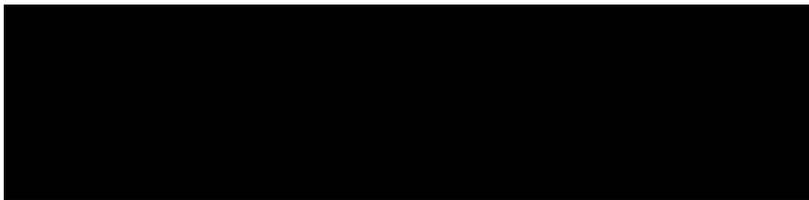
[EAC 07 066 50928, appeal]
[EAC 05 14771557]

INRE: 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:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the Vermont Service Center. Any further inquiry must be made to that office.

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

The applicant is 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 applicant filed an initial Form **I-821**, Application for Temporary Protected Status, under receipt number EAC 01 179 53640 during the initial registration period. The director denied **that** application on April 14, 2003, after determining **that** the applicant had abandoned her application by failing to respond to a Notice of Intent to Deny.

Since the application was denied due to abandonment, there was no **appeal** available; however, the applicant could have filed a motion to reopen within 30 days from the date of the denial. The applicant did not file a motion to reopen during the requisite timeframe.

The applicant filed the current Form I-821 on February 24, 2005.

The director denied the application because the applicant failed to establish she was eligible for late initial registration. The director also found that the applicant had not established that she had continuously resided in the United States since February 13, 2001 or **that** she had been continuously physically present in this country since March 9, 2001.

On **appeal**, the applicant submits **documentation** to **establish** that she has been physically present in the United States since 1993. In a letter dated January 26, 2005, the applicant states:

I know I made a big mistake by not putting more attention to **that** letter, but I have lived in this country since 1993. I have 3 children that were all born in the United States, 1994, 1996 and 1998. My passport was issued in Washington, DC in September, 2001 and I have done my taxes since before 2001. you will find evidence of **that** along with my application.

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 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.

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 EI 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. The initial registration period for EI Salvadorans was from March 9, 2001, through September 9, 2002. The record shows that the applicant filed her current application with Citizenship and Immigration Services on February 24, 2005.

To qualify for late **registration**, an applicant must provide evidence that during the initial registration period, he or she fell within at least one of the provisions described in 8 C.F.R. § 244.2(f)(2) above.

On appeal, the applicant submits evidence in an attempt to establish her continuous residence and continuous physical presence in the United States. However, **this** evidence does not mitigate the applicant's **failure** to file a complete Form 1-821 within the initial registration period. The applicant has not submitted any evidence to establish that she has met any of the criteria for late registration described in the regulations at 8 C.F.R. § 244.2(f)(2). Consequently, the director's decision to deny the application for TPS is affirmed.

A list of the evidence submitted by the applicant to show that she satisfied continuous residence and continuous requirements is shown below:

1. Copies of State of Maryland birth certificates for her two children born on May 9, 1994 and April 26, 1996, and a copy of a State of **Maryland** birth registration notice for her child born on October 29, 1998.
2. A **copy of her invitation** to apply for a COSTCO sponsored American Express credit card **with** **_____**'s COSTCO membership that he paid for on January 22, 2001.
3. A copy of the applicant's Republic of El Salvador issued on September 20, 2001 in **Washington, D.C.**
4. A copy of the applicant's State of Maryland Learner's Permit issued on July 1, 2003.
5. Copies of the applicant's IRS Form(s) 1040, U.S. Individual Income Tax **Return**, for the year 2000 filed on June 30, 2003, for the year 2001 filed on February 19, 2003, for the year 2002 filed on February 19, 2003, and for the year 2003 filed on January 4, 2004.
6. Copies of the applicant's Form 502(s), **Maryland** Tax Return, for the year 2000 filed on June 30, 2003, for the year 2001 filed on February 19, 2003, for the year 2002 filed on February 19, 2003, and for the year 2003 filed on January 4, 2004.

Other than the copy of an invitation to apply for a COSTCO sponsored American Express credit card, Item #2 above, the applicant has not submitted any evidence to establish her continuous residence from February 13, 2001, or her continuous physical presence in the United States from March 9, 2001, to April 13, 2001, the date she filed her initial application. 8 C.F.R. §§ 244.2 (b) and (c). Consequently, the director's decision is affirmed for these additional reasons.

The applicant's Federal Bureau of Investigation fingerprint results report shows that on February 21, 2004, she was arrested by the City Police Department in Rockville, Maryland and charged with "ASSAULT-SEC DEGREE." However, the final court disposition of this arrest is not included in the record of proceeding.

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 cited 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.