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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

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[REDACTED]

FILE:

[REDACTED]

Office: VERMONT SERVICE CENTER

Date: OCT 02 2008

[EAC 08 159 54842, appeal]
[EAC 07 361 71188]

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:

[REDACTED]

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 on appeal. The appeal will be dismissed.

The applicant claims to be 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 director denied the application because the applicant failed to establish she was eligible for late initial registration.

On appeal, counsel argues the decision of the Service was arbitrary and capricious, the Service abused its discretion in denying the applicant's late TPS registration application and that the applicant had submitted all evidence to establish she was indeed eligible for late TPS registration. Counsel explains that after the applicant entered the United States without inspection, she was added to her father's asylum application since she was a minor at that time. Counsel argues that she qualifies for late initial registration because of her father's asylum application and because she has been a beneficiary of an asylum applicant. Counsel submits additional documentation concerning the applicant's periods of residence and continuous physical presence in the United States.

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.

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. The initial registration period for El Salvadorans was from March 9, 2001, through September 9, 2002. The record shows that the applicant filed her application with Citizenship and Immigration Services on August 31, 2007.

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.

The record reflects that on September 29, 2001, the applicant's father requested that the applicant be added as a beneficiary to his Form I-589, Application for Asylum and for Withholding of Deportation. Her inclusion in her father's application qualified her for late initial registration because a condition described in 8 C.F.R. § 244.2(f)(2)(ii) was in effect in her behalf during the initial registration period from March 9, 2001 through September 9, 2002. Consequently, the director's determination concerning this ground for denial is withdrawn.

Beyond the decision of the director, the applicant indicated on her Form G-325, Biographic Information, filed with her Form I-589 on September 29, 2001, that she resided in El Salvador from birth until September 2001. She also indicated on her Form I-765, Application for Employment Authorization, that she signed on September 29, 2001, that she entered the United States on September 5, 2001. Therefore, she cannot establish continuous residence in the United States since February 13, 2001, or continuous physical presence in this country since March 9, 2001. The applicant is statutorily ineligible for TPS and the application shall be denied for these reasons. 8 C.F.R. §§ 244.2 (b) and (c).

Furthermore, the applicant has provided no further evidence to establish that she is a national or citizen of El Salvador. The record does not contain any photo identification such as a passport or national identity document to establish her nationality. 8 C.F.R. § 244.2(a) and § 244.9(a)(1). The application must also be denied for this additional reason.

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



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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.