



U.S. Citizenship
and Immigration
Services

(b)(6)

DATE: **AUG 28 2013**

Office: VERMONT SERVICE CENTER

IN RE: Applicant:

APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254a

ON BEHALF OF APPLICANT: Self-represented

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements.** See also 8 C.F.R. § 103.5. **Do not file a motion directly with the AAO.**

Thank you,

A handwritten signature in black ink, appearing to read "Ron Rosenberg".

Ron Rosenberg
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 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 denied the application because 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 that she has been residing in the United States for 24 years. The applicant states that neither she nor her mother applied for TPS in 2001. The applicant states, "my mother thought I was underage and I would not qualify." The applicant submits additional evidence to establish residence and physical presence in the United States from 2005 through 2011.

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 Secretary 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 term *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 term *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. The designation of TPS for El Salvadorans has been extended several times, with the latest extension valid until March 9, 2015, 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 U.S. Citizenship and Immigration Services (USCIS). 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 El Salvadorans was from March 9, 2001 through September 9, 2002. 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. The record reflects that the applicant filed her application on April 18, 2012.

On July 10, 2012, 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, in response, only provided documentation relating to her residence and physical presence in the United States.

The director determined that the applicant had failed to establish she was eligible for late registration and denied the application on September 1, 2012.

On appeal, the applicant does not provide any evidence to establish her eligibility as a late registrant. The provisions for late registration were created in order to ensure that TPS benefits were made available to aliens who did not register during the initial registration period (March 9, 2001, to September 9, 2002) for the various circumstances specifically identified in the regulations. The applicant has not submitted evidence that she has met any of the provisions outlined in 8 C.F.R. § 244.2(f)(2). Consequently, the director's decision to deny the application on this ground will be affirmed.

The second and third issues to be addressed are 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.

On July 10, 2012, the applicant was also requested to submit additional evidence establishing her qualifying continuous residence and continuous physical presence in the United States. The applicant was advised that she had failed to submitted evidence to establish residence and physical presence in the United States for the years 2005 through 2009, and that additional evidence was required to establish residence and physical presence for the years 2002 through 2004. The applicant, in response, provided the following:

- Classroom photographs the applicant's claims were taken in 2005.
- A documentation dated July 7, 2007, and bank statements for periods December 1, 2007 through December 2007, May 28, 2008 through June 25, 2008, and March 26, 2009 through April 24, 2009 from [REDACTED]
- A personal check dated September 8, 2007.
- A receipt dated September 11, 2007 from [REDACTED]
- College transcript from [REDACTED] for winter 2005 through summer 2009.

The director determined that the applicant has provided sufficient evidence to establish residence and physical presence from April 2001 to January 2002 and from January 2005 to the date of filing the TPS application. However, the evidence submitted for 2002 (a mathematics test result page), 2003 (a report card) and 2004 (a high school diploma) was not sufficient to establish continuous residence and continuous physical presence in the United States. The director concluded that the applicant had failed to submit sufficient evidence to establish her eligibility for TPS and denied, in part, the application on these grounds.

The AAO, however, disagrees with the director's finding that the applicant had submitted sufficient documents for April 2001 through January 2002 to establish residence and physical presence in the United States. A review of the evidence submitted during that period consists of two reports cards dated April 2001 and June 2001. The applicant claims that she has been residing in the United States for over 24 years and had attended school since kindergarten. The applicant, however, fails to submit school transcripts, which would corroborate her claim of residence and physical presence from February 13, 2001 through June 2004.

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 has, therefore, failed to establish that she has met the 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.

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.