



U.S. Citizenship
and Immigration
Services

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FILE:



Office: California Service Center

Date:

MAY 21 2007

[WAC 05 196 74519]

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.

for Robert P. Wiemann, Chief
Administrative Appeals Office

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

The applicant is 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 record reveals that the applicant filed a late initial TPS application on April 14, 2005, under CIS receipt number WAC 05 196 74519. The director denied the application on September 14, 2006, because the applicant failed to establish that she had continuously resided in the United States from February 13, 2001, and that she had been continuously physically present since March 1, 2001, and she was eligible for late initial registration for TPS. The director noted that the applicant failed to respond, within 30 days, to a July 21, 2006, notice of intent to deny requiring that she submit evidence to establish eligibility for TPS, and that the notice was not returned as undeliverable.

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 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.

Persons applying for TPS offered to El Salvadorans must demonstrate continuous residence in the United States since February 13, 2001, and continuous physical presence since March 9, 2001. The initial registration period for Salvadorans was from March 9, 2001, through September 9, 2002. The record reveals that the applicant filed her initial application with Citizenship and Immigration Services (CIS) on April 14, 2005.

To qualify for late registration, the 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 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).

With her TPS application, the applicant submitted:-

- An El Salvador birth certificate, with an English translation;
- An apartment lease, dated September 1, 2000;
- A reference letter, from [REDACTED] stating that the applicant was employed by her as a live-in employee from November 2003 through November 2004; and,
- A reference letter, from [REDACTED] PA-C, Ravenswood Family Health Center, stating that the applicant came to her clinic on September 22, 2003.

On appeal, the applicant states that she has been in the United States since 2000, and she needs employment authorization to work to support her children. The applicant further states that she did not receive the request for evidence. With her appeal, in an attempt to establish continuous residence in the United States and continuous physical presence, the applicant submits:-

- A reference letter from a former employer stating that the applicant worked with her from 2000 to 2002 as a housecleaner;
- A reference letter from a landlady, stating that the applicant rented a room at her home from 2000 to 2004;
- A CIS receipt notice, dated February 16, 2005;

- A CIS ASC appointment notice, dated June 1, 2005; and,
- A CIS letter, dated July 24, 2006, confirming the applicant's change of address.

However, this evidence does not mitigate the applicant's failure to file her Form I-821, Application for Temporary Protected Status, within the initial registration period.

It is noted that although the notice of intent to deny was sent to the applicant's last known mailing address, as noted by the director, it was not returned as undeliverable.

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). Consequently, the director's decision to deny the application for temporary protected status will be affirmed.

In addition, the applicant has not submitted sufficient evidence to establish her continuous residence in the United States from February 13, 2001 and her continuous physical presence since March 1, 2001. The applicant's evidence consists primarily of reference letters from individuals, without supporting documentation. It is reasonable to expect that the applicant would be able to provide independent objective evidence to establish her continuous residence and continuous physical presence during the requisite period. Therefore, the application must also be denied for these reasons.

Beyond the decision of the director, the applicant has not submitted sufficient evidence to establish her nationality and identity. The applicant has furnished a copy of an El Salvador birth certificate and English translation; however, she has not submitted a national identity document from her country bearing a photograph and or/fingerprint. The birth certificate alone is insufficient to establish the applicant's identity and nationality under the provision of 8 C.F.R. § 244.9(a)(1).

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 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.