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FILE: [REDACTED]  
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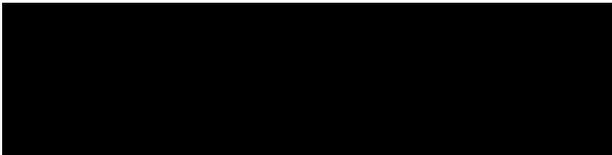
Office: VERMONT SERVICE CENTER

Date: **NOV 18 2005**

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:



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.

Robert P. Wiemann, Director  
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 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 after determining that the applicant had failed to establish she is eligible for late registration. The director also determined that the applicant had failed to establish her qualifying continuous residence and continuous physical presence in the United States during the requisite time periods.

On appeal, counsel for the applicant submits a brief statement and additional documentation.

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 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 reflects that the applicant filed her initial Form I-821, Application for Temporary Protected Status, with Citizenship and Immigration Services (CIS) on September 2, 2003, more than eleven months after the initial registration period had ended.

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).

In support of her initial Form I-821, the applicant submitted the following documentation:

1. A photocopy of her El Salvadoran birth certificate, with English translation; and,
2. Documentation to establish that she married [REDACTED], a TPS registrant ([REDACTED]) in Plainfield, New Jersey, on June 25, 2003.

On June 14, 2004, the director requested the applicant, through counsel, to submit evidence to establish her qualifying continuous residence and continuous physical presence in the United States during the requisite time

periods. The applicant was informed that such evidence may include, but was not limited to, employment or school records, rent/mortgage payment receipts, bank or insurance documents, medical or utility bills, or other similar materials. The director also requested the applicant to submit evidence to establish her eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2). In response, counsel submitted:

3. An affidavit, dated July 8, 2004, from [REDACTED] Plainfield, New Jersey, stating that the applicant had rented a room from him from January to March 2001;
4. Photocopies of generic rent receipts, dated January and February 2001; and,
5. An affidavit, dated July 8, 2004, from [REDACTED] Plainfield, New Jersey, stating that the applicant had been employed by him as a babysitter from January to April 2001.

The director determined that the documentation submitted was insufficient to establish that the applicant had continuously resided in the United States since February 13, 2001, and had been continuously physically present in the United States since March 9, 2001. The director also determined that the applicant had failed to establish that she was eligible for late registration. The director denied the application on July 31, 2004.

On appeal, counsel for the applicant submits the following additional documentation:

6. A photocopy of a Cablevision account mailing statement, dated April 22, 2001;
7. Photocopies of documentation indicating that the applicant received medical treatment in Plainfield, New Jersey on January 9, 2001, and from February 11, 2001 to April 2001; and,
8. A photocopy of a PSE&G utility account summary, dated May 2001.

The first issue to be addressed is whether the applicant has established her qualifying continuous residence and continuous physical presence in the United States during the requisite time periods.

The applicant claims to have continuously been in the United States from an unspecified date in 2001, to the date of filing her TPS application. It is reasonable to expect that she would have a variety of contemporaneous evidence to support that claim. Affidavits from acquaintances are not, by themselves, persuasive evidence of qualifying continuous residence and continuous physical presence. The documentation submitted indicates that the applicant was present in the United States from January 2001 to May 2001. There is no evidence of the applicant's continuous residence and continuous physical presence in the United States from May 2001 to the date of filing her application on September 2, 2003.

It is concluded that the applicant has failed to establish that she meets the criteria described in 8 C.F.R. §§ 244.2(b) and (c). Consequently, the director's decision to deny the application for these reasons will be affirmed.

The second issue to be addressed is whether the applicant has established that she qualifies for late registration.

The record confirms that the applicant filed her initial TPS application after the initial registration period had closed. Although the applicant has submitted evidence in an attempt to establish her qualifying continuous residence and continuous physical presence in the United States, this evidence does not mitigate the applicant's

failure to file her Form I-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 8 C.F.R. § 244.2(f)(2).

In order to qualify for late registration under the provisions of 8 C.F.R. § 244.2(f)(2)(iv), the applicant must be married to a TPS registrant during the initial registration period. The applicant was not married to a TPS registrant until June 25, 2003, more than nine months after the initial registration period had expired on September 9, 2002.

It is further concluded that the applicant has failed to establish that she filed a TPS application during the initial registration period pursuant to 8 C.F.R. § 244.2(f)(1), or that she falls within one of the conditions described in 8 C.F.R. § 244.2(f)(2) for late registration. Consequently, the director's decision to deny the application for this reason will also be affirmed.

Beyond the decision of the director, the applicant has not submitted sufficient evidence to establish her nationality and identity, as required under the provisions of 8 C.F.R. § 244.9(a)(1). The application must also be denied for this 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 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.