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U.S. Citizenship  
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FILE: [REDACTED]  
[SRC 03 031 56149]

Office: Texas Service Center

Date: SEP 26 2005

IN RE: Applicant: [REDACTED]

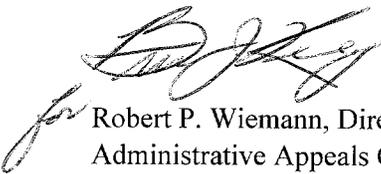
APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

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.

  
for Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, Texas Service Center, and is now before the Administrative Appeals Office 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 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 failed 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.

On appeal, counsel, on behalf of the applicant, provides a statement in support of the applicant's eligibility for TPS.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an applicant is eligible for TPS 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 § 244.3;
- (e) Is not ineligible under § 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.

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.

The phrase *brief, casual, and innocent absence*, as defined in 8 C.F.R. § 244.1, means a departure from the United States that satisfies the following criteria:

- (1) Each such absence was of short duration and reasonably calculated to accomplish the purpose(s) for the absence;
- (2) The absence was not the result of an order of deportation, an order of voluntary departure, or an administrative grant of voluntary departure without the institution of deportation proceedings; and
- (3) The purposes for the absence from the United States or actions while outside of the United States were not contrary to law.

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. On July 9, 2002, the Attorney General announced an extension of the TPS designation until September 9, 2003. A subsequent extension of the TPS designation has been granted by the Secretary of the Department of Homeland Security, with validity until September 9, 2006, 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 Citizenship and Immigration Services (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).

On January 28, 2001, the applicant was requested to submit evidence to establish that she is a national of El Salvador. The applicant was also requested to submit evidence establishing her continuous residence in the United States as of February 13, 2001, and her continuous physical presence in the United States since March 9, 2001, to the date of filing her application. In addition, the applicant was requested to submit evidence to establish her eligibility for TPS late registration. The applicant responded to the director's January 28, 2001 request and submitted copies of her El Salvadoran personal identification card issued to the applicant in El Salvador on January 26, 2001. The director determined that the applicant had failed to submit sufficient evidence to establish her continuous residence in the United States since February 13, 2001, and her continuous physical presence in the United States from March 9, 2001, to the date of filing her application for TPS. The director also determined that that the applicant failed to establish her eligibility for TPS late registration. Therefore, the director denied the application on March 19, 2003.

Counsel, on behalf of the applicant, filed a motion to reopen the application on May 21, 2003. A review of the record reflects that this motion was not filed within the requisite 30 day timeframe; however, the director considered the motion and determined that the applicant failed to establish her eligibility for TPS. The director, therefore, affirmed her previous decision and denied the application on January 7, 2004.

On December 19, 2003, counsel filed an appeal which is now before the AAO. Although the director made a decision on the motion to reopen as noted above, the currently pending Form I-290B will be considered as an appeal on the director's decision denying the motion to reopen dated January 7, 2004.

On appeal, counsel states that the applicant's initial application for TPS was timely filed on October 9, 2002. Also, counsel argues that the applicant has provided evidence to establish that she has resided in the United States since February 13, 2001, and has been physically present in the United States since March 9, 2001, to date of filing her application. Counsel also provides a copy of a receipt notice dated May 22, 2003, regarding the motion to reopen, and copies of his brief submitted along with his request for a motion to reopen.

The record of proceedings contains the following documentation in support of the applicant's eligibility for TPS: copies of the applicant's personal identification card [REDACTED] issued to her on January 26, 2001, in El Salvador; copies of the applicant's birth certificate; a copy of a Florida Apartment Lease Contract reflecting a term of lease from April 1, 2000 to March 31, 2001; a letter dated November 10, 2003, from [REDACTED] who stated that the applicant worked in her home from April 2002 to August 2003; an undated letter from [REDACTED] Owner of [REDACTED] Restaurant, who stated that the applicant has worked for her for about three months beginning in August 2003; and copies of Western Union receipts dated November 8, 2000, December 5, 2000, August 16, 2001, April 23, 2002, June 14, 2002, July 11, 2002, September 6, 2002, October 5, 2002, May 26, 2003, August 23, 2003, and October 30, 2002.

The first issue in this proceeding is whether the applicant is eligible for late registration.

The record of proceedings confirms that the applicant filed her application on October 9, 2002, after the initial registration period had closed. Counsel, on appeal, contends that the initial TPS registration period closed in November 2002. The initial registration period for Salvadorans was from March 9, 2001, through September 9, 2002. The re-registration period closed on November 12, 2002. To qualify for late registration, the applicant must provide evidence that during the initial registration period, he or she was either in a valid immigration status, had an application pending for relief from removal, was a parolee, or was the spouse or child of an alien currently eligible to be a TPS registrant, and he or she had filed an application for late registration within 60 days of the expiration or termination of the conditions described in 8 C.F.R. § 244.2(f)(2).

A review of the record of proceedings reflects that 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 conclusion that the applicant had failed to establish her eligibility for late registration will be affirmed.

The second issue in this proceeding is whether the applicant has established her continuous residence in the United States since February 13, 2001, or her continuous physical presence in the United States since March 9, 2001, to the date of filing her application.

The employment letter from [REDACTED] has little evidentiary weight or probative value as it does not provide basic information that is expressly required by 8 C.F.R. § 244.9(a)(2)(i). Specifically, the affiant does not provide the address where the applicant resided during the period of her employment. Further, the applicant's employment is not supported by corroborative evidence, such as paycheck stubs or earnings statements. The copy of a Florida Apartment Lease Contract reflecting a term of lease from April 1, 2000 to March 31, 2001, is not supported by any corroborative evidence such as billing statements for utility services, or payments for monthly rent to the landlord. It is also noted that the copy of the applicant's El Salvadoran personal identification indicates it was issued to the applicant in El Salvador on January 26, 2001; however, the applicant claimed on her applications for temporary protected status and employment authorization that she last entered the United States on March 20, 2000. Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988). The applicant has failed to submit any objective evidence to explain or justify the discrepancy in her claimed entry date to the United States as noted above. Therefore, the reliability of the remaining evidence offered by the applicant is suspect and it must be concluded that the applicant has failed 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 on these grounds will be also affirmed.

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.