

...ing ... deleted to  
prevent clearly unwarranted  
invasion of personal privacy



U.S. Citizenship  
and Immigration  
Services

M<sub>1</sub>

**PUBLIC COPY**



FILE: [REDACTED] Office: VERMONT SERVICE CENTER Date: FEB 27 2006  
[EAC 05 003 52334]

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: 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.

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 under the provisions of 8 C.F.R §244.2(f)(2). 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, the applicant submits an affidavit 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 TPS application with Citizenship and Immigration Services (CIS) on October 2, 2004, more than two years 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:

1. A photocopy of an abstract of her El Salvadoran birth certificate, with English translation, issued in El Salvador on September 1, 2004;
2. Photocopies of earnings statements from Trussway, Ltd., Houston, Texas, for the pay periods ending February 13, 2001, and March 3, 2001. The applicant's Social Security number on the statements is [REDACTED] her filing status is listed as married;

3. Photocopies of earnings statements from G.C. of Fredericksburg, L.L.C., for the pay periods ending September 6, 2004, and September 20, 2004. The applicant's Social Security number on the statements is listed [REDACTED]
4. Documentation indicating that her mother, [REDACTED] is a TPS applicant.

On November 4, 2004, the director requested the applicant to submit evidence to establish her qualifying continuous residence and continuous physical presence in the United States during the requisite time periods. 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, the applicant submitted:

5. Photocopies of earnings statements from G.C. of Fredericksburg, L.L.C., for the pay periods ending February 10, 2001; February 17, 2001; March 9, 2001; and, October 4, 2004. The applicant's Social Security number on the statements is listed [REDACTED]

The director determined that the evidence 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 January 18, 2005.

On appeal, the applicant submits the following additional documentation:

6. A photocopy of an earnings statement from Marketfare Foods, Inc., Phoenix, Arizona, for the pay periods ending December 25, 2002; October 16, 2003; January 8, 2004; and, January 22, 2005. The applicant's Social Security number on the statements is listed as [REDACTED] and her filing status is listed as single; and,
7. Documentation dated January 14, 2005.

Based on a review of the record, it is concluded that the applicant has submitted sufficient evidence to establish that she is the child of an alien who is currently eligible to be a TPS registrant, and, therefore, is eligible to file a late application for TPS under the provisions of 8 C.F.R. § 244.2(f)(2)(iv). Consequently, the director's decision to deny the application for failure to establish her eligibility for late registration will be withdrawn.

The late registration provisions, however, do not relax the other requirements for eligibility for TPS. The applicant claims to have lived in the United States from December 10, 2000, to the date of filing her TPS application on October 2, 2004. It is reasonable to expect that she would have a variety of contemporaneous evidence to support this claim.

At the time of filing her initial TPS application, the applicant indicated that she was single and had never before used a Social Security number. However, No. 2, above, lists her status as married, using social Security number [REDACTED]. Nos. 3 and 5 list her Social Security number as [REDACTED] and, No. 6 lists her status as single, using Social Security number [REDACTED]. These discrepancies have not been explained and call into question in the applicant's ability to document the requirements under the statute and regulations. Doubt cast on any aspect of the evidence as submitted may lead to a reevaluation of the reliability and sufficiency of the remaining

evidence offered in support of the visa petition. It is incumbent on the petitioner to resolve any inconsistencies in the record by independent objective evidence; any 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. (Comm. 1988).

It is concluded that the applicant has not submitted sufficient credible evidence to establish her qualifying continuous residence and continuous physical presence in the United States during the requisite time periods. She has, therefore, 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.

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.