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U.S. Citizenship
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FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: OCT 30 2006
[WAC 05 164 70878]

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, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, California 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 determined that the applicant failed to establish she had: 1) continuously resided in the United States since February 13, 2001; and 2) been continuously physically present in the United States since March 9, 2001. The director, therefore, denied the application.

On appeal, the applicant asserts that she applied for late registration under her husband. The applicant also submits evidence in an attempt to establish continuous residence and continuous physical presence in the United States during the qualifying period.

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 as 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.

The term *continuously physically present*, as used 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 used 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 that they have continuously resided in the United States since February 13, 2001, and that they have been continuously physically present 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. Subsequent extensions of the TPS designation have been granted, with the latest extension granted until September 9, 2007, upon the applicant's re-registration during the requisite 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).

The record shows that the applicant filed her TPS application on March 13, 2005. On March 14, 2006, the applicant was provided the opportunity to submit evidence establishing continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States from March 9, 2001, to the filing date of the application. The applicant was also requested to submit photos and 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, stated that she is the spouse of a TPS-eligible alien. She provided copies of a TPS re-registration application (Form I-821) and an application for employment authorization (Form I-765) for [REDACTED]. The applicant also submits statements from individuals attesting to her presence in the United States during the qualifying period. In addition, the applicant also submitted a bank statement from Bank of America for the period of October 16, 2004 through November 15, 2004, and a 2003 Combined Tax Statement from Bank of America.

The director determined that the applicant failed to submit sufficient evidence to establish her continuous residence and continuous physical presence in the United States during the qualifying period. Therefore, the director denied the application.

On appeal, the applicant states that she applied for late registration under her husband. According to the applicant, she did not file previously because she did not have the money. The applicant also states that all of the bills were in her husband's name. In addition, the applicant submits copies of documents to establish her husband's TPS status, and submits evidence in an attempt to establish continuous residence and continuous physical presence in the United States during the qualifying period. Specifically, the applicant submits statements

from [REDACTED] and [REDACTED] Mr. [REDACTED] states that he has known the applicant since December 24, 2000. Mr. [REDACTED] states that the applicant is his sister-in-law and that he knows the applicant has been in the United States since November 15, 2000. Mr. [REDACTED] states that he has known the applicant since November 23, 2000. However, these statements regarding the applicant's claimed presence in the United States before February 13, 2001 are not supported by any corroborative evidence. It is reasonable to expect that the applicant would have some type of contemporaneous evidence to support these assertions; however, no such evidence has been provided.

The applicant has not submitted sufficient evidence to establish that she has met the criteria for continuous residence and continuous physical presence described in 8 C.F.R. § 244.2(b) and (c). Consequently, the director's decision to deny the application for temporary protected status will be affirmed.

It is noted that the director did not deny the application for late registration, although the director did request evidence establishing her eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2). The only evidence the applicant provided was a copy of her marriage license in Spanish, with no English translation. Any document containing foreign language submitted to the CIS shall be accompanied by a full English language translation, which the translator has certified as complete and accurate, and by the translator's certification that he or she is competent to translate from the foreign language into English. 8 C.F.R. 103.2(b)(3). As the applicant failed to comply with the aforementioned, the document cannot be considered in the rendering of this decision. The applicant has provided insufficient evidence to establish her eligibility for late registration. Therefore, the application must be denied for this reason as well.

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.