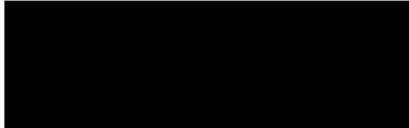


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Services

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FILE: [REDACTED] OFFICE: California Service Center DATE: DEC 04 2007

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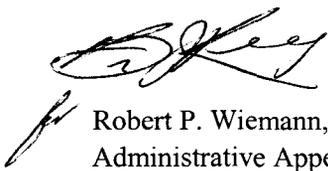
IN RE: Applicant: [REDACTED]

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 (CSC). It 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 director denied the application on the grounds that the applicant failed to submit requested evidence to establish her eligibility for late registration as well as her continuous residence and continuous physical presence in the United States for the requisite time periods.

On appeal the applicant submits additional documentation and asks that her case be reviewed.

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 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.

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.

El Salvadoran nationals applying for TPS offered 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 shows that the applicant filed her initial Form I-821, Application for Temporary Protected Status, on October 13, 2004.

To qualify for late registration, the applicant must provide evidence that during the initial registration period she met at least one of the conditions 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 Citizenship and Immigration Services (CIS). *See* 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. *See* 8 C.F.R. § 244.9(b).

On December 2, 2004, the CSC issued a notice of intent to deny (NOID) in which the applicant – who claims to have entered the United States without inspection in January 2000 – to submit evidence that she met the requirements for late registration, that she had resided in the United States continuously since February 13, 2001, and that she had been continuously physically present in the United States from March 9, 2001, to the date she filed for TPS. When the applicant failed to respond to the NOID within the requested one-month period, the director denied the application on January 28, 2005.

The applicant filed a timely appeal, and submitted some evidence of her residence and physical presence in the United States, consisting of photocopies of a rental application dated January 3, 2001; a medical appointment scheduled for February 3, 2001, and a payment receipt dated January 1, 2001. Prior to the appeal the applicant had also submitted some documentation in a late response to the NOID, including photocopies of her husband's earnings statements (Form W-2) and federal income tax returns for the years 2000 and 2001, and a Certificate of Merit of uncertain date awarded to the applicant from the Centenela Valley Adult School.

CIS records confirm that the applicant's husband, [REDACTED], filed an application for TPS on April 23, 2001, during the initial registration period for El Salvadoran nationals, which was approved on January 31, 2003. Subsequent applications for re-registration have likewise been approved. Thus, the applicant qualifies for late initial registration under 8 C.F.R. § 244.2(f)(2)(iv) as the spouse of a TPS-eligible alien during the initial registration period. Accordingly, the applicant has overcome the late registration ground for denial. That part of the director's decision will therefore be withdrawn.

The evidence of record, however, does not establish that the applicant satisfies the continuous physical presence and continuous residence requirements set forth in 8 C.F.R. § 244.2(b) and (c). With respect to the three pieces of documentation submitted on appeal, there are no official stamps or other official markings to confirm the dates and authenticity of any of the documents. Furthermore, the dates on these documents conflict with other evidence in the record. Though the applicant claims to have entered the United States in January 2000, this claim is contradicted by the information provided by the applicant's husband in his initial TPS application, filed in April 2001, which indicated that his wife resided in El Salvador. Not until his first re-registration application, filed in October 2002, did the applicant's husband state that she resided with him in Inglewood, California.

It is incumbent upon an applicant to resolve any inconsistencies in the record by independent objective evidence. Attempts to explain or reconcile such inconsistencies without competent evidence pointing to where the truth lies will not suffice. *See Matter of Ho*, 19 I&N Dec. 582, 591-92, (BIA 1988). The applicant has not resolved the foregoing inconsistencies. Moreover, doubt cast on any aspect of the applicant's evidence reflects on the reliability of the petitioner's remaining evidence. *See id.*

The only other evidence of the applicant's residence and physical presence in the United States are two affidavits from acquaintances who claim to have known the applicant in Los Angeles since January 2000. Letters from acquaintances are not, by themselves, persuasive evidence of residence or physical presence in the United States. If the applicant has lived in the United States since January 2000, as she claims, it is reasonable to expect that she would have more contemporaneous documentation.

Based on the foregoing analysis, the AAO determines that the applicant has failed to establish her continuous physical presence in the United States from March 9, 2001, to the date she filed for TPS (in October 2004), as well as her continuous physical presence in the United States since February 13, 2001, as required for TPS applicants from El Salvador under 8 C.F.R. § 244.2(b) and (c). Accordingly, the director's denial of the application will be affirmed on these grounds.

The application for TPS will be denied for the above stated reasons, with each considered as an equal and alternative basis for denial. 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 that burden.

ORDER: The appeal is dismissed.