



U.S. Citizenship  
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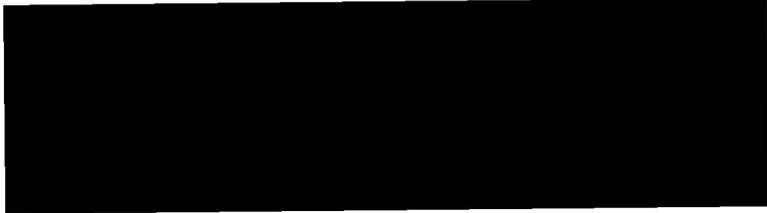
Office: California Service Center

Date:

[WAC 05 216 76211]

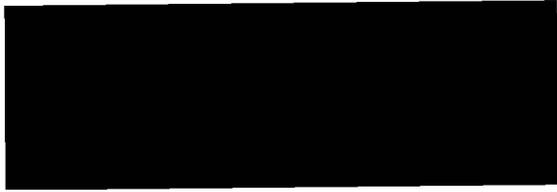
IN RE:

Applicant:



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, 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 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 record reveals that the applicant filed a late initial TPS application on May 4, 2005, under CIS receipt number WAC 05 216 76211. The director denied the application on May 24, 2006, because the applicant failed to respond to a request for evidence, issued by the director on February 13, 2006, to submit evidence within 30 days to establish her continuous residence in the United States from February 13, 2001, her continuous physical presence from March 9, 2001, her eligibility for late initial registration for TPS, and court disposition records for an arrest on August 4, 2005.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an applicant may apply for TPS during the initial registration period, or:

- (f) (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 initial registration period for El Salvadorans was from March 9, 2001 to September 9, 2002. The record reveals that the applicant filed the current application with Citizenship and Immigration Services (CIS) on May 4, 2005.

To qualify for late registration, the applicant must provide evidence that during the initial registration period 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 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).

On appeal, counsel states that the applicant is eligible for TPS as the spouse of a TPS recipient. In an attempt to establish the applicant's continuous residence, her continuous physical presence, and her eligibility for late initial registration, counsel submits copies of: a page of an Apartment Lease, dated December 5, 1999; an employment reference letter from [REDACTED] Inc., dated February 4, 2005, stating that the applicant worked for the company from June 10, 2000 until June 30, 2001; 2 envelopes addressed to the applicant in Houston, Texas, each with an El Salvador stamp; [REDACTED] Inc. money transfer statements, 5 issued in 2003, and 3 in 2004; 3 earnings statements for pay periods ending December 17, 2004, January 14, 2005, and March 11, 2006; 4 Western Union money transfer receipts, 3 issued in 2005, 1 in 2006, and one unclear statement; a Declaration and Registration of Informal Marriage, stamped filed January 18, 2005; an unclear Employment Authorization Card for [REDACTED] a Fingerprint Notification for [REDACTED] dated May 31, 2005; a receipt notice of an Application for Employment Authorization, for [REDACTED], dated September 8, 2003; a TPS approval notice for [REDACTED], dated June 13, 2002, showing TPS validity from June 13, 2002 through September 9, 2002; a Certification of Birth, issued August 18, 2004; a birth certificate (in Spanish) with an English Translation; an undated letter, addressed to [REDACTED] and [REDACTED] offering Mortgage Life Insurance; a birth certificate, issued March 23, 2004; 6 unclear photos; an Animal Addendum to a lease, dated February 25, 2005; a Truth in Lending Statement, dated April 27, 2006; and a court disposition dated June 14, 2006.

It is noted, however, that the applicant's claimed marriage to a TPS registrant has not been established. Although the applicant claimed that she was married to a TPS registrant on December 10, 2000, a review of the A-File for [REDACTED] reveals that Mr. [REDACTED] listed his marital status as "single" on his initial TPS application, Form I-821, filed on April 1, 2001, on his TPS applications filed in 2002, and 2003; and on his Form I-765, Application for Employment Authorization, filed in 2001, 2002, and 2003. On all of these TPS applications, in Part 3, under "Information about your spouse and children (if any)," Mr. [REDACTED] inserted N/A where the application called for the spouse information. However, on his TPS application filed May 4, 2005, the applicant listed his marital status as "married", and stated that the marriage took place in December 2000 in Houston, Texas. This casts doubt on whether the applicant and Mr. [REDACTED] were married in December 2000, as the applicant claims. 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 discrepancies within her TPS application. 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 marital status as the spouse of a TPS registrant. Accordingly, the application will also be denied for these reasons.

Furthermore, under the provisions of the Texas Family Code a common-law marriage may be shown by establishing three factors: (1) an agreement by the parties to be married, (2) living together in Texas after the agreement is made, and (3) representation to others by the parties that they are married. *Matter of Garcia*, 16 I&N Dec. 623, 624 (BIA 1978). The applicant provided a Declaration of Informal Marriage signed on January 18, 2005, based on an agreement to be married on December 10, 2000. However, the applicant has failed to provide sufficient evidence to establish that all of these factors have been met. Also, the record does not support the applicant's claim of marriage. Therefore, this record of informal marriage cannot be accepted for purposes of this application.

The applicant has failed to provide any evidence to establish that this application should be accepted as a late initial registration under 8 C.F.R. § 244.2(f)(2). Therefore, the application also must be denied for this reason.

Beyond the decision of the director, the applicant has not submitted sufficient evidence to establish continuous residence and continuous physical presence in the United States during the requisite periods. Therefore, the application must be denied for these additional reasons.

It is noted that the applicant's Federal Bureau of Investigation (FBI) fingerprint results report reflects that the applicant was arrested by the Constables Office – Prec 3, Baytown, Texas, on August 4, 2005, and charged with Theft >=\$50<\$500, and a conviction on a guilty plea, entered by Harris County District Court, Houston, Texas, on September 9, 2005, and a sentence of 4 days imprisonment and a fine of \$300. CIS must address this arrest in any future proceedings.

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.