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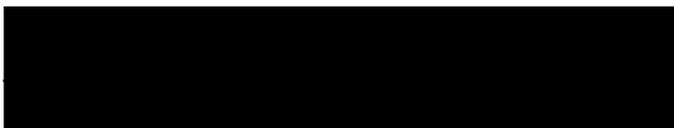
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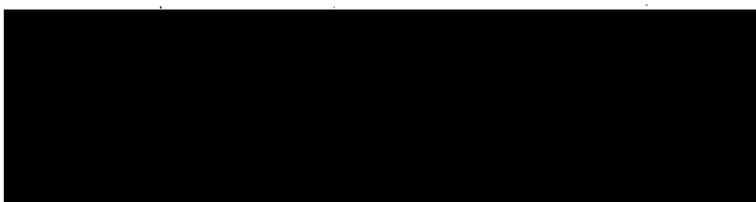
OFFICE: CALIFORNIA SERVICE CENTER

DATE: MAY 07 2007

[WAC 05 222 75754]

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:

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 denied the application because the applicant had "failed to register in a timely manner."

On appeal, the applicant submits a statement and additional evidence.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an alien 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 § 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 condition described in paragraph (f)(2) of this section.

The term *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 term *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.

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 valid until September 9, 2007, upon the applicant's re-registration during the requisite time period.

The initial registration period for El Salvadorans was from March 9, 2001, through September 9, 2002. The record shows that the applicant filed her TPS initial application on May 10, 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 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).

In a Notice of Intent to Deny dated May 2, 2006, the applicant was requested to submit evidence establishing her eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2). The applicant was also requested to submit evidence to establish nationality and identity, and evidence to establish continuous residence in the United States since February 13, 2001, and continuous physical presence from March 9, 2001, to the date of filing the application. The applicant responded by submitting a copy of an El Salvadoran passport issued to the applicant on January 27, 2006, in San Francisco, California; a copy of Form I-797, Notice of Action, dated January 30, 2003, advising [REDACTED] that he had been granted TPS; a copy of an El Salvadoran marriage certificate indicating that the applicant and Mr. [REDACTED] were married on February 13, 1997; and various documents in an attempt to establish residence and physical presence in the United States.

The director denied the application on August 3, 2006, after determining that the applicant was ineligible for TPS because she failed to register in a timely manner, and that the documents submitted by the applicant in an attempt to establish continuous residence and continuous physical presence appear to have been altered and are not acceptable, and that all remaining documents are from the years 2002 through 2005.

On appeal, the applicant requests reconsideration because she complied with the late filing requirements under her husband's approved TPS application. She submits the following:

1. Copies of amended Form 1040, Income Tax Return, filed jointly with Mr. [REDACTED] for the tax years 2001, 2002, 2003, 2004, and 2005.
2. A statement dated May 26, 2006, from [REDACTED] indicating that she has known the applicant and her family since 2001 because the applicant was living with her since 2001 at [REDACTED], San Pablo, California.
3. A statement dated August 31, 2006, from [REDACTED] indicating that during the period of 2001 to 2003, once or twice a week, the applicant was, on some occasions, the babysitter of her daughter.
4. A copy of a lease agreement dated January 6, 2003, for the lease of [REDACTED] California.
5. A letter of employment dated August 31, 2006, from [REDACTED] indicating that the applicant has worked for him during the year 2004 as a housekeeper.

File [REDACTED] relating to [REDACTED] was subsequently reviewed, and the following are noted:

- (a) Mr. [REDACTED] indicated on his initial TPS application filed on September 3, 2002, and subsequent TPS applications and Applications for Employment Authorization (Form I-765) filed on October 25, 2002, and on August 25, 2003, that his marital status is "single." Also under Part 3 of the Forms I-821 [Information about your spouse and children], the applicant indicated "NONE" under "Name of Spouse."
- (b) Form 1040, Income Tax Return, for the tax year 2002, was filed as "single," and Mr. [REDACTED] did not claim any dependents on the tax form.
- (c) Mr. [REDACTED] El Salvadoran Identity Card (Cedula), issued on June 1, 1998, listed his marital status as "single."
- (d) A statement dated August 23, 2002, from [REDACTED] indicating that she "shared housing" with [REDACTED] from January 2001 to June 2002 at [REDACTED], San Pablo, California. It is noted that Ms. [REDACTED] did not indicate that the applicant was also residing with her and Mr. [REDACTED] at this address during this period; therefore, Ms. [REDACTED] statement dated May 26, 2006, stating that the applicant resided with her in 2001 is not credible (see No. 2 above).
- (e) Copies of money transfer receipts from [REDACTED] indicates that on August 23, 2002, Mr. [REDACTED] transferred \$320 to the beneficiary, [REDACTED] with "Special Instruction: \$20 para [for] [REDACTED]" On September 9, 2002, Mr. [REDACTED] transferred \$100 to the beneficiary, [REDACTED] with "Special Instruction: [REDACTED]"
- (f) Mr. [REDACTED] filed a TPS re-registration on May 10, 2005. Only on this re-registration application did he ultimately indicate that he is married to the applicant; he requested, in an accompanying statement, that the applicant be granted TPS based on his approved TPS. Mr. [REDACTED] failed to submit a copy of his marriage certificate to support his claim of marriage.

Regulations at 8 C.F.R. § 244.2(f)(2)(iv) simply allow spouses of aliens who are TPS-eligible to file applications after the initial registration period had closed; however, these regulations do not relax the

requirements for eligibility for TPS. Mr. [REDACTED] had maintained throughout the TPS process that he was "single," and he never claimed to have been married until he filed his re-registration application on May 10, 2005, the same date that the applicant filed her initial TPS application. The inconsistencies of Mr. [REDACTED] claim of marriage render his claim and the applicant's claim implausible, and the authenticity of the marriage certificate, furnished by the applicant, is questioned.

The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. 8 C.F.R. § 244.9(b). As previously noted by the director in his notice of denial, several documents furnished by the applicant in an attempt to establish residence and physical presence have been altered. Therefore, the reliability of the remaining evidence offered by the applicant is suspect. Additionally, as noted in Mr. [REDACTED]'s file, it appears that as of September 2002, the applicant was not residing in the United States as claimed [see item (e) above]. Therefore, the applicant could not have met the criteria for continuous residence in the United States since February 13, 2001, and continuous physical presence since March 9, 2001. 8 C.F.R. § 244.2(b) and (c).

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, in fact, lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988).

The applicant has failed to establish that she has met the criteria for continuous residence in the United States since February 13, 2001, and continuous physical presence since March 9, 2001, as described in 8 C.F.R. § 244.2(b) and (c). Additionally, based on the discrepancies of the applicant's marriage to a TPS registrant, the applicant has failed 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 decision to deny the TPS application will be affirmed.

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.