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U.S. Department of Homeland Security
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**U.S. Citizenship
and Immigration
Services**

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FILE: [REDACTED]
[EAC 05 221 77799]

Office: VERMONT SERVICE CENTER

Date: **SEP 24 2007**

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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The Director, Vermont Service Center (VSC), denied the application. The application is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant claims to be a native and citizen of El Salvador who seeks 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 failed to establish her qualifying continuous residence and continuous physical presence in the United States.

On appeal, the applicant's mother asserts that the applicant is eligible for late registration as the child of a TPS registrant and submits 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 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.
- (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 Salvadorans must demonstrate continuous residence in the United States since February 13, 2001, and continuous physical presence since March 9, 2001.

The initial registration period for Salvadorans was from March 9, 2001, through September 9, 2002. Subsequent extensions of the TPS designation have been granted, with the latest extension valid until March 9, 2009, upon the applicant's re-registration during the requisite time period.

To qualify for late registration, the applicant must provide evidence that during the initial registration period she fell within at least one of the four provisions described in 8 C.F.R. § 244.2(f)(2) above.

The burden of proof is on 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 reflects that the applicant filed her initial TPS application on March 7, 2005 - almost four years after the close of the initial registration period for Salvadorans. The applicant indicated on her application that she entered the United States, without inspection, on November 1, 2000. In support of her application, the applicant submitted documentation indicating that she was born on November 7, 1991, to [REDACTED] a TPS registrant [REDACTED].

On May 1, 2006, the director requested that the applicant submit evidence establishing her qualifying continuous residence and continuous physical presence in the United States. In response, the applicant submitted the following:

- a printout from her dentist, dated May 13, 2006, showing dental work done on December 11, 2000;
- an affidavit from [REDACTED], attesting that he has known the applicant and her mother since December 2000, as he has helped the family with their tax returns; and,
- an affidavit from [REDACTED]s, attesting that she has known the applicant and her mother since 2000.

On September 15, 2006, the director denied the application, finding that the applicant had failed to establish her qualifying continuous residence and continuous physical presence. On appeal, the applicant's mother reasserts her daughter's eligibility as the child of TPS registrant and explains that she was not able to enroll her daughter in school in 2001 and 2002 because she was not able to obtain her daughter's birth certificate until 2003. She submits a printout from her daughter's dentist office, date October 3, 2006, indicating treatment on December 11, 2000, January 15, 2001, and, June 28, 2001.

The applicant is the child of an alien who is currently eligible to be a TPS registrant and is, therefore, eligible to file a late application for TPS under 8 C.F.R. § 244.2(f)(2)(iv). However, a late-filing child of a TPS-eligible parent must meet the same continuous residence and continuous physical presence requirements as all other TPS applicants.

The dental records submitted by the applicant's mother cannot be given significant evidentiary weight as they contain unexplained inconsistencies. Both records were printed in 2006, but the one dated May 13, 2006, only lists treatment received on December 11, 2000. The printout dated October 3, 2006, shows dental treatment on December 11, 2000, plus dental treatment on two separate dates in 2001. 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 inconsistent dental records. Therefore, the records can be given little if any evidentiary weight.

The affidavits from [REDACTED]s and [REDACTED] cannot be given significant evidentiary weight as they do not provide full information and/or complete details relating to the applicant's continuous residence and continuous physical presence in the United States as required by 8 C.F.R. § 244.9(a)(2). In addition, the affidavits are not accompanied by evidence to corroborate the applicant's qualifying residence and continuous physical presence.

The applicant claims to have entered the United States on November 1, 2000. She was approximately nine years old at the time, yet she does not submit any school records or other reliable, independent documentation of her qualifying continuous residence and continuous physical presence. The record contains inconsistencies regarding her ability to provide school records as proof of residence and physical presence. On appeal, the applicant's mother states that she was not able to enroll her daughter in school in 2000 and 2001 because she did not receive her daughter's birth certificate until the beginning of 2003. The record reflects, however, that the applicant's birth certificate was issued on November 9, 2000. See *Matter of Ho*.

The applicant has not submitted sufficient credible evidence to establish that the continuous residence and continuous physical presence requirements of 8 C.F.R. § 244.2(b) and (c). The director's decision to deny the application for TPS on these grounds will be affirmed.

Beyond the decision of the director, the applicant has not submitted a photo identity document as required in 8 C.F.R. § 244.9(a)(11) to establish her nationality and identity. The application must be denied for this additional reason.

An alien applying for TPS has the burden of proving that he or she meets the requirements cited 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.