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**U.S. Citizenship
and Immigration
Services**

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[REDACTED]

FILE:

[REDACTED]

Office: CALIFORNIA SERVICE CENTER

Date: JAN 22 2008

[WAC 05 217 74633]

INRE:

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:

[REDACTED]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the California Service Center. 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 (CSC), and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a citizen of EI 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 TPS application on June 18, 2001, during the initial registration period under Citizenship and Immigration Services (CIS) receipt number LIN 01 207 53252. The Nebraska Service Center (NSC) director denied that application on December 7, 2001, due to abandonment because the applicant failed to respond to a request for evidence.

The applicant filed a subsequent TPS application on August 5, 2002, also during the initial registration period, under receipt number LIN 0225450955. The NSC director denied that application on February 5, 2003, also due to abandonment because the applicant failed again to respond to a request for evidence. On March 7, 2003, the applicant filed a motion to reopen which was dismissed by the NSC director on April 14, 2004. After a review of the record, the Chief, AAO, concurs with the NSC director's denial decision.

The applicant filed the current Form 1-821, Application for Temporary Protected Status, on March 7, 2005. The director denied this application because the applicant's initial TPS application had been denied and the applicant was not eligible to re-register for TPS.

If the applicant is filing an application as a re-registration, a previous grant of TPS must have been afforded the applicant, as only those individuals who are granted TPS must register annually. In addition, the applicant must continue to maintain the conditions of eligibility. 8 C.F.R. § 244.17.

On appeal, counsel asserts the applicant's eligibility for TPS late registration

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 designated by the Attorney General is eligible for TPS 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

- (1) (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 parole; 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 (1)(2) of this section.

The initial registration period for El Salvador was from March 9, 2001, through September 9, 2002. The record reveals that the applicant filed this application with CIS on March 7, 2005.

To qualify for late registration, the applicant must provide evidence that during the initial registration period she satisfied at least one of the provisions described in 8 C.F.R. § 244.2(1)(2) above.

On appeal, counsel asserts that the applicant is eligible for TPS late registration because she satisfied three of the conditions described in 8 C.F.R. § 244.2(1)(2). In particular, counsel contends that the applicant was in a "valid non-immigrant status," and that she had an application pending to change her status to TPS during the initial registration period. In addition, counsel maintains that the applicant is eligible for TPS late registrations because her spouse was eligible for TPS benefits.

A review of the record reflects that the applicant claimed on her TPS application to have entered the United States without inspection. The record does not indicate that the applicant was in a non-immigrant status during the initial registration period, nor has counsel provided any evidence to support this claim. In addition, the record does not reflect that the applicant was in any status during the initial registration period since she claimed to have entered the United States without inspection. The only applications that the applicant had pending during the initial registration period were two TPS applications, which were not applications for a change or adjustment of status, but rather applications to obtain a status for the first time. Thus, the applicant does not qualify for late TPS registration under 8 C.F.R. § 244.2(1)(2)(i) or (ii).

Moreover, the record of the applicant's spouse, [REDACTED] shows that his TPS application, filed on March 7, 2005, was denied on June 15, 2006. Thus, the applicant is not eligible for late TPS registration under 8 C.F.R. § 244.2(f)(2)(iv) as a spouse of a currently eligible TPS registrant. Consequently, the director's conclusion that the applicant failed to establish her eligibility for late registration will be affirmed.

It is also noted that the applicant has not provide sufficient evidence to establish her qualifying continuous residence and continuous physical presence in the United States during the requisite time periods. The applicant has submitted earnings statements from S.R.O. Catering dated August 7, 1999, to December 31, 2002, bearing the Social Security number "____ - ____". On her TPS application filed on March 7, 2005, however, the applicant stated that her Social Security number is "[REDACTED]". 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 Ro*, 19 I&N Dec. 582 (BIA 1988). The applicant has failed to submit any objective evidence to explain or justify this discrepancy. 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 qualifying continuous residence and continuous physical presence in the United States during the requisite time periods under in 8 C.F.R. §§ 244.2(b) and (c). As such, the application will also be denied for these reasons.

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.