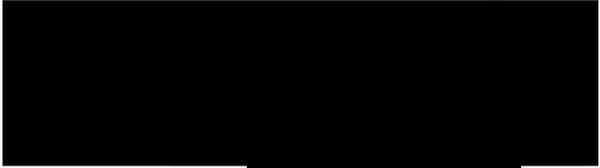




U.S. Citizenship  
and Immigration  
Services

**PUBLIC COPY**  
**Identifying data deleted to**  
**prevent clearly unwarranted**  
**invasion of personal privacy**

M1



FILE: [REDACTED]  
[SRC 03 245 55397]

Office: TEXAS SERVICE CENTER Date: MAR 04 2008

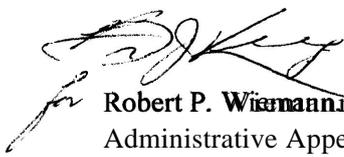
INRE: Applicant: [REDACTED]

APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT: SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the Vermont Service Center. Any further inquiry must be made to that office.

  
for Robert P. Wismann, Chief  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, Texas 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 applying for 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 that she was eligible for late initial registration.

On appeal, the applicant submits a statement.

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 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 El Salvadorans 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 Salvadorans was from March 9, 2001, through September 9, 2002. The record shows that the applicant filed her Form 1-821, Application for Temporary Protected Status, with Citizenship and Immigration Services on September 3, 2003.

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

On October 8, 2003, 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 establishing her qualifying continuous residence and continuous physical presence in the United States during the requisite periods. In addition, the applicant was requested to provide photo identification. The applicant, in response, provided: a notarized employer letter, attesting that the applicant has been employed with MIJ Cleaning Service, Franklin, Tennessee, since January 13, 2001; a copy of a residential lease agreement dated January 23, 2001, covering the year beginning from February 1, 2001; her Tennessee Driver License, issued on August 6, 2003; her El Salvadoran cedula; a certificate from Alcaldia Municipal De Jocoro, Morazan, El Salvador, indicating that the applicant married " " in El Salvador on October 29, 2000; a copy of the Tennessee Driver License for " issued August 13, 2002; and, a copy of the Employment Authorization document (EAD) for " " under Category C19, with validity from January 14, 2003 through September 9, 2003.

The director determined that the applicant had failed to establish she was eligible for late registration and denied the application on December 23, 2003.

On appeal, the applicant states that she attempted to apply for TPS during the initial registration period but was advised by the person preparing her husband's paperwork that she could not apply because she had not been working at that time. She states that when her husband re-registered in August 2003, the preparer told her that she could apply because she qualified under the provision for late initial registration. She asks that her case be reconsidered as she believes that she meets the requirements, including being the spouse of an alien currently eligible to be a TPS registrant.

Review of the record belonging to \_\_\_\_\_ reflects that his TPS application was denied on March 6, 2003. He filed a motion to reopen on October 21, 2003. His Form 1-821 filed under receipt number SRC 02 056 54542 was approved on June 21, 2004. It is noted that \_\_\_\_\_ certified on his TPS applications and employment authorization applications that he was "single." The records of both the applicant **and** \_\_\_\_\_ contain Marriage Certificates indicating their marriage took place on October 29, 2000. It is noted that these certificates are not copies of the same document; the position of the stamps and typeface vary. The applicant, therefore, has not conclusively established that she is the spouse of an alien currently eligible to be a TPS registrant. Consequently, the director's conclusion that the applicant had failed to establish her eligibility for late registration under the provisions of 8 C.F.R. § 244.2(f)(2), will be affirmed.

Beyond the decision of the director, the record is also inconsistent regarding the applicant's continuous residence in the United States since February 13, 2001, and her continuous physical presence in the United States since March 9, 2001. The employer affidavit indicates that the applicant has been employed full-time with MII Cleaning Service, Franklin, Tennessee, "since January 13, 2001." On appeal, however, the applicant states that she did not apply during the initial registration period, which ran from March 9, 2001, through September 9, 2002, "because I was not working on that time," and the preparer had told her that she must have been working to obtain a work permit. Additionally, the signatures for the applicant and her purported spouse on the copy of a residential lease **agreement** dated January 23, 2001 listed above, covering the year beginning from February 1, 2001, do not resemble their signatures on their Forms 1-821 that they submitted for the record. 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). It is determined that the applicant has not provided any evidence to establish her continuous residence and continuous physical presence during the required time period. 8 C.F.R. § 244.2 (b) and (c). Consequently, the application must 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.