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20 Mass. Ave., N.W., Rm. A3042
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
[EAC 03 257 54974]

Office: VERMONT SERVICE CENTER

Date: MAY 09 2005

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 "R. Wiemann".

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Vermont Service Center, and is now before the Administrative Appeals Office (AAO) 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 failed to establish that she was eligible for late registration.

On appeal, the applicant submits a brief statement and additional documentation.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an applicant 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
- (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.

Persons applying for TPS offered to El 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. The record reveals that the applicant filed her initial Form I-821, Application for Temporary Protected Status, with Citizenship and Immigration Services (CIS) on September 13, 2003.

To qualify for late registration, the applicant must provide evidence that during the initial registration period, she was either in a valid immigration status, had an application pending for relief from removal, was a parolee, or was the spouse or child of an alien currently eligible to be a TPS registrant, and had filed an application for late registration within 60 days of the expiration or termination of the conditions described in 8 C.F.R. § 244.2(f)(2).

The burden of proof is upon the applicant to establish that she 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 her burden of proof the applicant must provide supporting documentary evidence of eligibility apart from her own statements. 8 C.F.R. § 244.9(b).

On her Form I-821, the applicant indicated that she was born in El Salvador on January 15, 1984, and that she had last entered the United States without inspection on February 8, 2001. In support of her application, the applicant submitted photocopies of the following documentation:

1. The identification page of her Salvadoran passport, issued in Boston, Massachusetts, on July 18, 2003; and,
2. An Employment Authorization Document (EAD) belonging to [REDACTED], issued on September 10, 2002.

On October 16, 2003, the applicant was requested to submit evidence establishing his 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 her qualifying continuous residence and continuous physical presence in the United States during the requisite time periods. In response, the applicant provided the following additional documentation:

3. An undated letter from [REDACTED] stating that he has supported the applicant since her arrival in the United States; and,
4. A letter from [REDACTED] dated November 11, 2003, stating that she employed [REDACTED] from February 13, 2001 to November 28, 2002.

The director determined that the applicant had failed to establish that she was eligible for late registration and denied the application on January 21, 2004.

On appeal, the applicant states that she has already submitted documentation to establish that she has been in the United States since before February 13, 2001. In support of her appeal, the applicant submits a letter, dated February 21, 2004, from her alleged step-father and mother, [REDACTED] and [REDACTED] stating that they have supported the applicant since she arrived in Massachusetts on February 11, 2001.

A review of the alien file relating to [REDACTED] reflects that she filed an application for TPS on July 9, 2001. At the time of filing her application, Ms. [REDACTED] indicated that she had two children [REDACTED] and [REDACTED] who were both residing at that time in El Salvador. Ms. [REDACTED] TPS application was approved on January 17, 2003.

CIS regulations allow the child of an alien currently eligible to be a TPS registrant to file an application after the initial registration period. Section 101(b)(1) of the Act defines the term "child" as an "unmarried person under twenty-one years of age." The evidence of record reveals that the applicant, who indicates that she was born on December 15, 1984, was under the age of twenty-one years throughout the initial registration period from March 9, 2001, through September 9, 2002, and at the time her TPS application was filed on September 13, 2003. Furthermore, the record reflects that the applicant's claimed mother, [REDACTED] is currently a TPS-eligible applicant. However, the applicant has failed to provide any objective evidence, such as a birth certificate, to establish that she is, in fact, the child of [REDACTED].

It is concluded that the applicant has failed to submit sufficient evidence to establish that she has met the criteria described in 8 C.F.R. § 244.2(f)(2)(iv). Consequently, the director's decision to deny the application for temporary protected status will be affirmed.

Beyond the decision of the director, the applicant has not submitted sufficient evidence to establish that she satisfies the continuous residence and continuous physical presence requirements described in 8 C.F.R. § 244.2(b) and (c). The applicant indicates that she last entered the United States on February 8, 2001. However, at the time of filing her TPS application on July 9, 2001, the applicant's claimed mother indicated that the applicant was residing in El Salvador. These discrepancies have not been explained and call into question in the applicant's ability to document the requirements under the statute and regulations. Doubt cast on any aspect of the evidence as submitted may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. It is incumbent on the applicant to resolve any inconsistencies in the record by independent objective evidence; any 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. (Comm. 1988). Therefore, the application may also not be approved for these reasons.

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. Here, the applicant has failed to meet this burden.



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ORDER: The appeal is dismissed.