

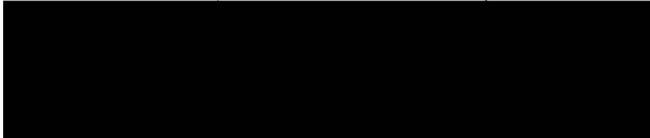


U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
[EAC 06 214 72567]

OFFICE: Vermont Service Center

DATE: FEB 04 2008

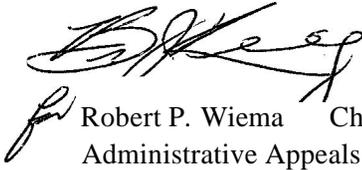
INRE: Applicant: [REDACTED]

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 office that originally decided your case. Any further inquiry must be made to that office.


Robert P. Wiema Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Vennont Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The applicant claims to be a 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 she was eligible for late registration. The director also found that the applicant had failed to establish her qualifying continuous residence and continuous physical presence in the United States during the requisite periods.

On appeal, the applicant states that she really needs to **work** legally in the United States so that she can help her family economically and to give them a better way of life and future.

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 is eligible for TPS only if such alien establishes that he or she:

- (a) Is a national of a 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 Temporary Protected Status 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 (t)(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 EI 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 designation of TPS for EI Salvadorans has been extended several times, with the latest extension valid until March 9, 2009, upon the applicant's re-registration during the requisite time period.

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).

The first issue in this proceeding is whether the applicant is eligible for late registration.

The initial registration period for Salvadorans was from March 9, 2001, through September 9, 2002. The record reveals that the applicant filed her application with **Citizenship** and Immigration Services (CIS) on April, 30, 2006. 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(t)(2) above. .

On October 13, 2006; the applicant was requested to submit evidence **establishing** her eligibility for late registration as set forth in 8 C.F.R. § 244.2(t)(2). The applicant was also requested to submit evidence **establishing** her qualifying continuous residence and continuous physical presence in the United States. The

applicant, in **response**, provided documentation relating to her residence and physical presence in the United States.

The director determined that the applicant had failed to establish she was eligible for late registration and denied the application on January 31, 2007. **It** is also noted that a denial was issued to the applicant in relation to this application on January 10, 2007. Due to Service error that denial indicated that the applicant had not responded to the request for evidence. That statement was **incorrect** and should not have been included in the denial that was issued. The director correctly stated the grounds for denial in the January 31, 2007 denial notice.

On appeal, the applicant asks that her application be approved.

The applicant submitted evidence in an attempt to establish her qualifying residence and physical presence in the United States. However, this evidence does not mitigate the applicant's failure to file her Application for **Temporary** Protected Status within the initial registration period. The applicant has not submitted any evidence 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 conclusion that the applicant had failed to establish her eligibility for late registration will be affirmed.

The second issue in this proceeding is whether the applicant has established her continuous residence in the United States since February 13, 2001 or her continuous physical presence in the United States since March 9, 2001.

As stated above, the applicant was requested on October 13, 2006 to submit evidence establishing her qualifying continuous residence and continuous physical presence in the United States. The applicant, in response, provided the following documentation:

1. An affidavit dated December 26, 2006 from _____ attesting that she has known the applicant since March of 2001;
2. An affidavit dated December 26, 2006 from General Director of _____ attesting that the applicant had worked for her for five **months distributing the** newspaper;
3. An affidavit dated December 25, 2006 from Bishop _____ General Superintendent of _____ **stating** that the applicant had been a member of his Congregation since March 2001 and that she attends Church and participates in all activities in a very committed way; and,
4. An affidavit dated December 26, 2006 from _____ attesting that he has known the applicant since March 2001.

The director determined that the applicant had failed to submit **sufficient** evidence to establish her eligibility for TPS and denied the application on January 31, 2007.

On appeal, the applicant reasserts her claim of eligibility for TPS.

The employment affidavit from _____ has little evidentiary weight or probative value as it does not provide basic information that is expressly required by 8 C.F.R. § 244.9(a)(2)(i). Specifically, the affiant does not provide

the address where the applicant resided during the period of her employment. It is further noted that the affiant did not indicate the location of her business, nor is there any corroborating evidence in the record such as pay stubs, W-2 tax forms, or yearly income statements listing the business as an employer of the applicant. The item is rejected as authentic evidence. If CIS fails to believe that a fact stated in the petition is true, CIS may reject that fact. Section 204(b) of the Act, 8 U.S.C. § 1154(b); *see also Anetekhai v. INS.*, 876 F.2d 1218, 1220 (5th Cir.1989); *Lu-Ann Bakery Shop, Inc. v. Nelson*, 705 F. Supp. 7, 10 (D.D.C.1988); *Systronics Corp. v. INS*, 153 F. Supp. 2d 7, 15 (D.D.C. 2001). Doubt cast on any aspect of the petitioner's proof may, of course, lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. *Matter of Ho*, 19 I&N Dec. 582, 591 (BIA 1988).

Two of the affidavits submitted in response to the director's NOm states only that the writers have "known the applicant since March 2001," and thus are not sufficiently relevant to support the applicant's assertions of eligibility. Even in the light most favorable to the applicant these letters lack sufficient detail and context, and do not cover the entire required period. While 8 C.F.R. § 244.9(a)(2) specifically states that additional documents such as letters "may" be accepted in support of the applicant's claim, the regulations do not suggest that such evidence alone is sufficient to establish the applicant's qualifying residence or physical presence in the United States. The applicant claims to have lived in the United States since 2000, it is reasonable to expect that the applicant would have some other type of contemporaneous evidence to support her claim. However, no such evidence has been provided

The affidavit from [REDACTED] has little evidentiary weight or probative value as it does not provide basic information that is expressly required by 8 C.F.R. § 244.9(a)(2)(v). Specifically, the pastor does not explain the origin of the information to which he attests, nor does he provide the address where the applicant resided during the period of his involvement with the church. The Church is located in Georgia and the applicant is a resident of Maryland. This consistency is not explained by the applicant or the record. The AAO rejects this letter as authentic, credible evidence, and it will not be given any weight in these proceedings.

The applicant has not submitted sufficient credible evidence to establish her qualifying continuous residence in the United States since February 13, 2001, or her continuous physical presence in the United States since March 9, 2001. She has, therefore, failed to establish that she has met the criteria described in 8 C.F.R. § 244.2(b) and (c). Consequently, the director's decision to deny the application for TPS on these grounds will also 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 TPS 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.