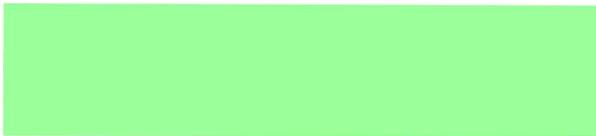




U.S. Citizenship  
and Immigration  
Services

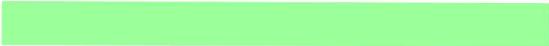
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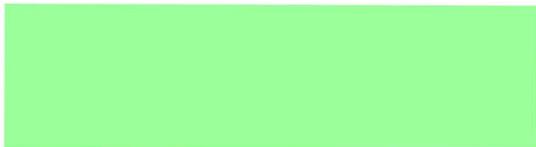
Office: VERMONT SERVICE CENTER

FILE: 

IN RE: Applicant: 

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

ON BEHALF OF APPLICANT:

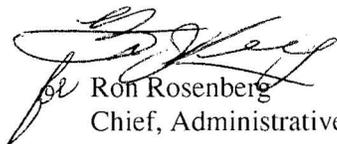


INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements.** See also 8 C.F.R. § 103.5. **Do not file a motion directly with the AAO.**

Thank you,



Ron Rosenberg  
Chief, Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, Vermont 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 denied the application because the applicant had failed to establish her qualifying continuous residence and continuous physical presence in the United States during the requisite periods.

On appeal, counsel asserts, in pertinent part:

[The applicant's] affidavit explains her wrong doing based on incorrect advice she received when she first arrived into the United States. She had and continues to have all intentions of doing everything correctly, so when she was explained that she had to marry within the United States in order for her marriage to be valid, she wanted to make sure she was following the appropriate laws. Due to her culture and limited knowledge, she complied with the given instructions without hesitation.

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 Secretary 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 (f)(2) of this section.

The term *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 term *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 designation of TPS for El Salvadorans has been extended several times, with the latest extension valid until March 9, 2015, 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 U.S. Citizenship and Immigration Services (USCIS). 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 El Salvadorans was from March 9, 2001 through September 9, 2002. 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(f)(2) above.

The record reflects that the applicant filed her initial TPS application [REDACTED] on September 2, 2003. Along with her application, the applicant submitted a copy of her spouse's employment authorization card (A12) and a copy of her Florida marriage license indicating she was married on August 24, 2003 to [REDACTED]. On January 23, 2004, the Director, Texas Service Center, denied the application due to abandonment. No motion was filed from the denial of that application.<sup>1</sup>

The applicant filed a second TPS application [REDACTED] and indicated that she was re-registering for TPS. Along with her application, the applicant submitted a copy of her spouse's employment authorization card (A12) and a copy of her Florida marriage license indicating she was married on August 24, 2003 to [REDACTED]. On October 28, 2005, the Director, California Service Center, denied the application because the applicant's initial TPS application had been denied and she was not eligible to apply for re-registration for TPS. No appeal was filed from the denial of that application.

The applicant filed the current TPS application on February 27, 2012, and it was considered under the late registration provisions described in 8 C.F.R. § 244.2(f)(2).<sup>2</sup> Along with her application, the applicant submitted a copy of an El Salvadoran marriage certificate indicating she was married on October 10, 2000 to [REDACTED].

On October 11, 2012, the applicant was informed of the discrepancy between two marriage certificates. The applicant was requested to submit a statement explaining the discrepancy. The applicant, in response, apologized for the misunderstanding and asserted, in pertinent part:

I was originally married to [REDACTED] on October 10, 2000 in my country of El Salvador. However, when I migrated to the United States I was informed by the Notary Public that was assisting me with my initial application that in order for my marriage to count I had to be legally married in this country even though I had been married in my own country. So that is when my husband [REDACTED] and I remarried in [REDACTED] Florida on August 23, 2003.

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<sup>1</sup> A denial due to abandonment may not be appealed, but an applicant may file a motion to reopen. 8 C.F.R. § 103.2(b)(15).

<sup>2</sup> Any TPS application subsequently submitted by the same applicant after an initial application is filed and a decision has been rendered, and the initial registration period has expired, must be considered as either a request for re-registration or as a new filing for TPS benefits.

In her decision of April 29, 2013, the director noted that on the initial TPS application signed August 4, 2002<sup>3</sup> by [REDACTED] he indicated "N/A" to having a spouse. In his re-registration applications, [REDACTED] has listed the date of his marriage as August 24, 2003.

It is incumbent upon an 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, in fact, lies, will not suffice. *See Matter of Ho*, 19 I&N Dec. 582 (BIA 1988). As conflicting documents have been provided, it is reasonable to also expect an explanation from the applicant's spouse in order to resolve the contradictions. However, no statement from [REDACTED] has been submitted to resolve the omission of his marriage on his initial application and to corroborate the applicant's affidavit. Furthermore, the initial TPS application filed September 2, 2003 by the applicant does not reflect that anyone other than the applicant prepared the application, as no information is listed at part 5 of the application; part 5 of the application requests the name, address and signature of the person preparing the form. Therefore, the El Salvadoran marriage certificate raises questions to its authenticity and to the credibility of the applicant's affidavit.

The applicant has not submitted any credible 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 and third issues to be addressed are whether the applicant has established her continuous residence in the United States since February 13, 2001, and her continuous physical presence in the United States since March 9, 2001.

The AAO does not view the documents submitted throughout the application process as substantive to support a finding that the applicant continuously resided and was continuously physically present in the United States during the requisite periods as inconsistent and contradicting statements have been submitted. Specifically:

- [REDACTED] in her affidavit, attested to the applicant's residence at [REDACTED] "during the year of 2001 and 2002." The affiant indicated that the applicant paid \$400 for rent each month. As previously noted by the director, the affiant failed to provide the specific dates the applicant resided at the address in question. In addition, the address and rental amount listed on the rent receipts for 2001 do not correspond with the assertions of Ms. [REDACTED]. The applicant also listed a different address on the Western Union money grams dated in 2001 and 2002.
- The rent receipts for 2001 are not supported by any corroborative evidence.

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<sup>3</sup> The application was filed on August 8, 2002.

employment and to include the applicant's address at the time of employment. Therefore, the affidavits are of little or no probative value in determining the applicant's continuous residence and physical presence during the qualifying period.

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. *Matter of Ho*, 19 I&N Dec. 591. The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. 8 C.F.R. § 244.9(b). The applicant has not submitted sufficient evidence to satisfy the continuous residence (since February 13, 2001) and continuous physical presence (since March 9, 2001) requirements 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.

Finally, as the appeal will be dismissed on the grounds discussed above, the director's finding that the applicant may be ineligible for TPS under section 212(a)(1)(A)(iii)(I) and (II) of the Act need not be addressed at this time.

**ORDER:** The appeal is dismissed.