U.S. Department of Homeland Security
U.S. Citizenship and Immigration Service
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090

(b)(6)

U.S. Citizenship and Immigration Services

DATE: OCT 2 9 2014 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 (AAO) 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. On March 6, 2014, the director denied the application because the applicant failed to establish: 1) she was eligible for late registration; 2) her identity; 3) she had continuously resided in the United States since February 13, 2001; and 4) she had been physically present in the United States since March 9, 2001.

On appeal, counsel asserts that the applicant has submitted sufficient evidence to establish continuous residence and continuous physical presence in the United States before, during and after the initial registration period.

Counsel indicates at Part 2 on the appeal form that a brief and/or additional evidence would be submitted to the AAO within 30 days.[1] However, more than six months later no additional correspondence has been presented by counsel or the applicant. Therefore, the record must be considered complete.

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

[1] Every appeal submitted on the form prescribed by this chapter shall be executed and filed in accordance with the instructions on the form, such instructions being hereby incorporated into the particular section of the regulations in this chapter requiring its submission. 8 C.F.R. § 103.2(a)(1). The Form I-290B instructs the applicant to submit a brief and additional evidence to the AAO within 30 days of filing the appeal.

(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 AAO conducts appellate review on a *de novo* basis. *See Siddiqui v. Holder*, 670 F.3d 736, 741 (7th Cir. 2012); *Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004); *Dor v. INS*, 891 F.2d 997, 1002 n. 9 (2d Cir. 1989).

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 on September 11, 2002. On February 11, 2004, the director denied the application because the applicant failed to respond to the notice of August 13, 2003, which requested evidence of continuous residence and continuous physical presence in the United States during the requisite periods. Both notices were sent to the address of record at the time, and there is no evidence that either notice was returned as undeliverable. No appeal was filed from the denial of that application.

The applicant filed the current TPS application on August 9, 2013. On October 30, 2013, 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, in response only 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, in part, on that ground.

On appeal, the applicant neither addresses the finding of her ineligibility as a late registrant nor provides any evidence to establish her eligibility as a late registrant. A previous application for TPS is not an application for adjustment of status, cancellation of removal, discretionary relief, recommendation against removal, or suspension of deportation, and does not render the applicant eligible for subsequent late registration. The provisions for late registration were created in order to ensure that TPS benefits were made available to aliens who did not register during the initial registration period for the various circumstances specifically identified in the regulations. The applicant has not submitted evidence that she has met any of the provisions outlined in 8 C.F.R. § 244.2(f)(2). Consequently, the director's decision to deny the application on this ground will be affirmed.

The second issued to be addressed is whether the applicant has established her identity.

It is noted that along with her initial TPS application, the applicant provided a copy of her birth certificate with English translation. However, the birth certificate was not accompanied by a photo identification. 8 C.F.R. § 244.9(a)(1)(ii).

On October 30, 2013, the applicant was also requested to submit evidence to establish her identity as required in 8 C.F.R. § 244.9(a)(1). The applicant, however, failed to submit the required evidence. The director determined that the applicant had failed to establish her identity and denied the application, in part, on that ground.

On appeal, the applicant does not provide the required documentation to establish her identity. Consequently, the director's decision to deny the application on this ground will also be affirmed.

The third and fourth 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.

Throughout the TPS proceedings, the applicant has submitted the following:

- An affidavit notarized September 1, 2002, from owner of , New Jersey, who indicated that the applicant has been in his employ from December 30, 2000 to the present as a part-time waitress.
- Affidavits notarized September 2, 2002 from New Jersey, who indicated that they have known the applicant since January 1, 2000 and January 1, 2001, respectively. Both affiants attested to the applicant's moral character.
- An affidavit notarized August 30, 2002 from who attested to her brother-in-law residing at her residence in New Jersey since December 30, 2000. It is noted that the applicant's name was added at the top of the affidavit.
- A letter dated July 6, 2013, from pastor of New Jersey, who indicated that their computer records reflect that the applicant had registered and attended English as a Second Language (ESL) classes from January 8, 2001 through October 15, 2001.
- Copies of money gram receipts dated January 12, 2001, May 17, 2001, August 18, 2001 and March 26, 2002; a receipt dated March 30, 2001 from the and the first page of a 2004 Form 1040, U.S. Individual Income Tax Return.
- An affidavit notarized January 13, 2014 from who indicated that he has known the applicant since August 2001, and attested to the applicant's moral character.
- An affidavit notarized January 13, 2014, from who indicated that he has known the applicant since 2001 and that the applicant "works at my home helping my wife."

Reverend indicated that the applicant attended ESL courses during 2001, but no evidence was provided to corroborate this assertion. Likewise, the applicant submitted an affidavit from indicating that she had been in his employ since December 30, 2000, but no pay statements were furnished to support this claim. The employment affidavit also 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. Simply going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972).

The affidavit from raises questions to its authenticity as the applicant's name was typed onto the affidavit in a different typeface than that of the surrounding text. As mentioned above, the affiant only provided the name of her brother-in-law in the body of her text. The applicant has failed to submit any objective evidence to explain or justify the apparent alteration of the document presented.

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. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

The receipts only serve to establish the applicant's physical presence in the United States throughout 2001 and on March 26, 2002; they do not establish continuous physical presence and continuous residence.

The only types of affidavits listed as acceptable evidence of an alien's continuous residence and continuous physical presence in the United States at 8 C.F.R. § 244.9(a)(2) are: affidavits supplied by employers; affidavits supplied by organizations with which a self-employed alien has done business; and, affidavits supplied by officials of organizations of which the applicant has been a member. The regulation at 8 C.F.R. § 244.9(a)(2) does not list affidavits of witness from friends, acquaintances, or family members as acceptable evidence of continuous residence and continuous physical presence during the requisite time frames. While such affidavits may be given some consideration under the provision of 8 C.F.R. § 244.9(a)(2)(vi)(L) as "any other relevant document," the evidentiary standard set forth at 8 C.F.R. § 244.9(a)(2) clearly gives greater evidentiary weight to contemporaneous documents as proof of an alien's continuous residence and physical presence in the United States during the requisite time frames.

We do not view the remaining affidavits as substantive to support a finding that the applicant has continuously resided and has been continuously physically present in the United States during the requisite periods. Considering the length of time the affiants claim to have known the applicant, they provide remarkably few details about the applicant's life in the United States, such as the nature of their relationship with the applicant or the basis for their continuing awareness of the applicant's residence. The absence of sufficiently detailed documentation to corroborate the applicant's claim of continuous residence for the requisite periods seriously detracts from the credibility of her claim.

The applicant has not submitted sufficient credible evidence to establish 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 applicant 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.