

U.S. Department of Homeland Security  
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Washington, DC 20529

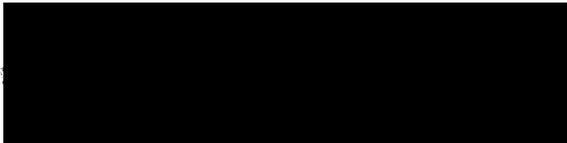
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U.S. Citizenship  
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FILE:

[REDACTED]  
[EAC 03 253 50659]

Office: VERMONT SERVICE CENTER

Date:

JUN 24 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.

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 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. 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 asserts her eligibility for TPS. The applicant states that she has been in the United States since July of 2000 and that she is applying under her husband's TPS.

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 (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. A subsequent extension of the TPS designation has been granted with validity until September 9, 2006, 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 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 the Immigration and Naturalization Service, now Citizenship and Immigration Services (CIS), on September 8, 2003.

The record of proceedings confirms that the applicant filed her application after the initial registration period had closed. 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 she 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).

On October 3, 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. The applicant, in response, provided the following documentation:

1. A copy of the applicant's El Salvadoran marriage certificate with English translations; and,
2. A copy of the applicant's husband's Employment Authorization Card which was issued from September 10, 2002, to September 9, 2003.

The director determined that the applicant had failed to establish that she was eligible for late registration and denied the application on January 7, 2004.

On appeal, the applicant states that she is filing her TPS application under her husband's TPS.

The applicant submitted a copy of her marriage certificate that demonstrates that she was married to [REDACTED] on October 29, 1992 in Conchagua, El Salvador. In reviewing the record, [REDACTED] Molina's TPS application was filed on May 7, 2001, and approved on July 20, 2004. Therefore, the applicant qualifies for late registration of her TPS application in 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 will be withdrawn.

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.

The director requested the applicant on October 3, 2003 to submit evidence establishing her qualifying continuous residence and continuous physical presence in the United States. The applicant, in response, provided the following documentation:

3. A letter from [REDACTED] in which he states that the applicant had been working in his house from July 2000 to April 2001 as a housekeeper and babysitter;
4. An affidavit from [REDACTED] in which she stated that the applicant has been babysitting for her since April of 2001; and
5. A copy of a Form W-7, Application for IRS Individual Taxpayer Identification Number dated February 15, 2002 bearing the applicant's name and Bakersfield, California address.

The director determined that the applicant had failed to submit sufficient evidence to establish her eligibility for TPS and denied the application on January 7, 2004.

On appeal, the applicant reasserts her claim of TPS eligibility and submits the following documentation:

6. A letter from the applicant's husband in which he states that the applicant came to the United States in July of 2000 to help him make money to send to their children and did not initially plan to stay, and that they did not decide to have her stay indefinitely until after the initial registration period had expired;
7. A copy of three receipts bearing the applicant's name and dated February 10, 2001, January 11, 2002, and August 23, 2003, which the applicant states are receipts from money sent to her children in El Salvador.

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. In reviewing the applicant's husband's records, it appears that he stated in his TPS application dated May 7, 2001, and Employment Authorization application dated June 12, 2001, that the applicant was residing in El Salvador at the time the applications were signed and dated. Contrary to these statements, the applicant's husband now states in a letter of support (No. 6 above) that the applicant came to the United States in July of 2000. 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). The applicant has failed to submit any objective evidence to explain or justify the inconsistencies. Therefore, the reliability of the remaining evidence offered by the applicant is suspect.

The remaining evidence submitted by the applicant fails to document her continuous residency in the United States since February 13, 2001 and continuous physical presence in the United States since March 9, 2001. The applicant has 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 be affirmed.

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.