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FILE: [REDACTED] OFFICE: CALIFORNIA SERVICE CENTER DATE:

[WAC 05 223 84282]

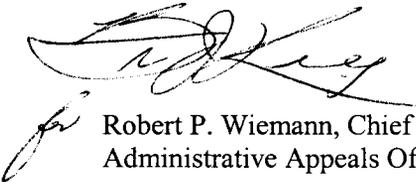
IN RE: Applicant: [REDACTED]

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, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, California 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 after determining that the evidence furnished by the applicant was insufficient to establish: (1) eligibility for late initial registration; (2) continuous residence in the United States since February 13, 2001; and (3) continuous physical presence in the United States from March 9, 2001, to the date of filing the application.

On appeal, the applicant submits a statement and additional evidence.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an alien who is a national of a foreign state designated by the Attorney General is eligible for temporary protected status 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 § 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 condition described in paragraph (f)(2) of 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.

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.

Persons applying for TPS offered to El Salvadorans must demonstrate that they have continuously resided in the United States since February 13, 2001, and that they have been continuously physically present in the United States since March 9, 2001. On July 9, 2002, the Attorney General announced an extension of the TPS designation until September 9, 2003. Subsequent extensions of the TPS designation have been granted, with the latest extension valid until September 9, 2007, upon the applicant's re-registration during the requisite time period.

The initial registration period for El Salvadorans was from March 9, 2001, through September 9, 2002. The record shows that the applicant filed her initial application on May 11, 2005.

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 record of proceeding 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 from March 9, 2001 through September 9, 2002, she fell within the provisions described in 8 C.F.R. § 244.2(f)(2) (listed above).

In a Notice of Intent to Deny dated March 4, 2004, 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 continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States from March 9, 2001, to the date of filing the application. The applicant, in response, provided evidence in an attempt to establish her residence in the United States.

The director determined that the evidence provided was insufficient to establish eligibility for TPS and denied the application on May 9, 2006.

On appeal, the applicant asserts that she is filing under the late registration program as she has an asylum case pending, and that she also had an "old TPS case." She submits a copy of an Employment Authorization Card (EAD) issued on January 10, 1992, as evidence that she was granted TPS.

While the record shows that the applicant had previously been granted TPS during the 1991 TPS designation for El Salvador, that designation, however, terminated on June 30, 1992. That earlier 1991 TPS designation is unrelated to the [present] 2001 TPS re-designation. Furthermore, the record of proceedings, including CIS records, are devoid of any evidence that the applicant has an asylum case pending as claimed by the applicant. Nor did the applicant submit any evidence to corroborate this claim. 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 applicant has failed 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 decision to deny the application on this ground will be affirmed.

The next issue in this proceeding is whether the applicant has established her continuous residence in the United States since February 13, 2001, and continuous physical presence from March 9, 2001, to the date of filing the TPS application.

The applicant claimed to have entered the United States on May 11, 1990. In support of her application, the applicant submitted a copy of a California Identification Card issued on June 1, 1990, a copy of her Social Security Card, and a copy of her EAD issued on January 10, 1992.

In a Notice of Intent to Deny dated March 4, 2004, the applicant was requested to submit evidence establishing continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States from March 9, 2001, to the date of filing the application [May 11, 2005]. She was also requested to submit evidence establishing her eligibility for late registration. In response, the applicant submitted:

1. Additional copies of her California ID, Social Security Card, and EAD.
2. A copy of her El Salvadoran passport and English translation of her birth certificate.
3. Copies of two Forms I-765, Applications for Employment Authorization, received at the Los Angeles district office on January 7, 1992 and on August 10, 1992.

The director determined that the evidence furnished to establish continuous residence and continuous physical presence in the United States was insufficient to establish eligibility for TPS and denied the application on May 9, 2006.

On appeal, the applicant submits:

4. Copies of taxpayer printouts from the Internal Revenue Service for the tax years 2000, 2001, and 2002.
5. A copy of the applicant's Social Security Statement, issued by the Social Security Administration on July 1, 2005, showing earnings for 1997, 2000, 2001, and 2002. It is noted that the statement shows "0" earnings for the years 1998, 1999, 2003, and a notation, "not yet recorded," for the year 2004.
6. Copies of envelopes addressed to the applicant postmarked July 31, 1995 and September 7, 2000.

7. A copy of a billing statement from Fry's Electronics dated September 15, 2002.
8. A statement dated May 17, 2006, from [REDACTED] indicating that the applicant worked for him for about two years, from 2000 thru 2001, babysitting his son. It is noted that this statement was not notarized.
9. A statement dated May 17, 2006, from [REDACTED] manager of Plaza Jewelers, indicating that the applicant is a customer of Plaza Jewelers since March 10, 2000, that she is a valued customer and has always paid her account as agreed.

The statements from Mr. [REDACTED] (No. 8 above) and from Mr. [REDACTED] (No. 9 above) were not notarized or attested to under penalty of perjury. Further, no evidence was offered to show that the applicant made purchases and/or made payments to her account continuously from 2000 to the date of Mr. [REDACTED] statement. Nor did Mr. [REDACTED] or the applicant submit documentary evidence to support this statement.

The record, as presently constituted, shows that the applicant was present in the United States from 1992 through 2002. However, the applicant has furnished no documentary evidence to establish that she has continuously resided and has been continuously physically present in the United States from January 2003 to the date of filing the TPS application on May 11, 2005, and as described in 8 C.F.R. § 244.2(b) and (c). Consequently, the director's decision to deny the TPS application on this ground 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 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. The applicant has failed to meet this burden.

ORDER: The appeal is dismissed.