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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

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APR 27 2007

FILE: [REDACTED]
[EAC 05 222 71486]

Office: VERMONT SERVICE CENTER

Date:

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 Vermont Service Center. Any further inquiry must be made to that office.

Robert P. Wiemann, 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 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 she was eligible for late initial registration. The director also determined the applicant had failed to establish she had continuously resided in the United States since February 13, 2001 and had been continuously physically present in the United States since March 9, 2001.

On appeal, the applicant states that she is eligible for late initial registration because her spouse has been approved for TPS. She also states that she entered the United States on January 15, 2001 through Phoenix, Arizona, and that she has remained in this country since that date. She then explains that she went to Brownsville, Texas on November 4, 2004 and was detained by an Immigration Officer which led to her removal proceeding before an Immigration Judge in Memphis, Tennessee, on May 4, 2006. She further explains that her deportation proceeding was administratively closed and that meanwhile, she registered for TPS. She submits additional documents concerning continuous residence and continuous physical presence for consideration including her marriage certificate.

Section 244(c) of the Act, and the related regulations at 8 C.F.R. § 244.2, provide that an applicant who is a national of a foreign state designated by the Attorney General 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.

Persons applying for TPS offered to El Salvadorans must demonstrate continuous residence in the United States since February 13, 2001, and continuous physical presence since March 9, 2001. The initial registration period for Salvadorans was from March 9, 2001, through September 9, 2002. The Secretary of the Department of Homeland Security has granted an extension of the TPS designation with validity until September 9, 2007, upon the applicant's re-registration during the requisite time period. The record reflects that the applicant filed her initial application with Citizenship and Immigration Services on March 7, 2005.

To qualify for late registration, an applicant must provide evidence that during the initial registration period, he or she fell within at least one of the provisions described in 8 C.F.R. § 244.2(f)(2) above.

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 director determined that the applicant had failed to establish she was eligible for late registration and denied the application on July 28, 2006. On appeal, the applicant states that she is eligible for late initial registration because her spouse has been approved for TPS submits a copy of her marriage certificate.

A copy of the applicant's marriage certificate indicates that she married [REDACTED] in the State of Kentucky on February 23, 2005. In order to be eligible for late registration, the qualifying relationship must have existed during the initial registration period. 8 C.F.R. § 244.2(f)(2). Since the applicant was not the spouse of an alien currently eligible to be a TPS registrant during the initial registration period, she is not eligible for late registration for that reason.

The applicant has submitted evidence in an attempt to establish her qualifying continuous 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. Therefore, the director's determination is affirmed.

Furthermore, the record contains a Form I-213, Record of Deportable/Inadmissible Alien, dated November 7, 2004, indicating that the United States Border Patrol apprehended the applicant after she apparently illegally entered the United States on November 4, 2004. The applicant's attempt to explain her presence in Brownsville, Texas, in 2004 is not persuasive. Therefore, she cannot satisfy the continuous residence and continuous physical requirements described in 8 C.F.R. §§ 244.2(b) and (c) which require her continuous residence in the United States since February 13, 2001 and her continuous physical presence in this country since March 9, 2001. Consequently, the director's decision concerning continuous residence and continuous physical presence during the required period is also affirmed.

Although not addressed by the director, the applicant has provided insufficient evidence to establish that she is a national or citizen of El Salvador. The record does not contain any photo identification such as a passport or national identity document to establish her nationality. 8 C.F.R. § 244.2(a) and § 244.9(a)(1).

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.