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FILE: [REDACTED] Office: VERMONT SERVICE CENTER Date: DEC 07 2007
[EAC 07 006 70724]

IN RE: Applicant: [REDACTED]

APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act (the 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 Director, Vermont Service Center (VSC) denied the application. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a citizen of El Salvador who seeks 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 found that the applicant 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 asserts that she filed her application during the initial registration period and has been properly re-registering every year. She submits additional documentation in support of her claim.

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.

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 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. Subsequent extensions of the TPS designation have been granted, with the latest extension valid until March 9, 2009, 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 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 record reflects that the applicant filed her initial application on March 23, 2002 – during the initial registration period. In support of her application, the applicant submitted her birth certificate, her Salvadoran national identification card, and, two letters from individuals who know the applicant personally. The applicant did not respond to the director's April 23, 2003, request that she submit further evidence to establish her qualifying continuous physical presence in the United States. On June 18, 2003, the director deemed the application abandoned and denied it.

On February 16, 2005, the applicant filed an application for re-registration. The director denied the application because the applicant's previous application had been denied. Only those who have been granted TPS can re-register for it. The applicant no longer had a pending TPS application and was not eligible for re-registration or for late initial registration. The director also found that the applicant had not established her qualifying continuous residence and continuous physical presence. The applicant filed an appeal of that decision with the AAO. On July 25, 2006, the AAO affirmed the director's decision and dismissed the appeal.

On October 6, 2006, the applicant filed the current application for re-registration. On December 13, 2006, the director requested that the applicant provide documentation to establish that she qualified for late initial registration under 8 C.F.R. 244.2(f). The director also requested that the applicant submit documentation to establish her qualifying continuous residence and continuous physical presence. In response, the applicant submitted photocopies of the identification page of her Salvadoran passport; the birth certificate of her daughter, born October 29, 2002, in North Bergen, New Jersey; two notarized statements from individuals who know the applicant personally; her 2004 and 2005 Internal Revenue Service (IRS) Forms 1040; and, documentation relating to all the TPS applications the applicant has submitted to CIS since 2002. On February 22, 2007, the director again denied the application because the applicant had never been granted TPS and was not eligible for late registration, and, because she failed to establish her continuous residence and continuous physical presence. On appeal, the applicant reasserts that she is eligible for TPS. In addition to previously submitted documents, the

applicant submits the IRS 1040 she filed jointly with her husband in 2002, and a notice granting her eligibility for supplemental Medicaid coverage for prenatal patients, dated March 22, 2002.

The applicant has submitted various documents in an attempt to establish her continuous residence and continuous physical presence in the United States. However, this evidence does not overcome her failure to properly file her TPS application for within the initial registration period. The applicant has not submitted any evidence to establish that she has met any of the criteria for late registration described in the regulations at 8 C.F.R. § 244.2(f)(2). Therefore, the director's decision to deny the application on this ground will be affirmed.

Furthermore, the documentation submitted by the applicant fails to establish her qualifying continuous residence and continuous physical presence.

The notarized letters submitted by the applicant can be given little weight and are of little probative value as they do not provide the affiants' addresses, dates and places of birth, relationship to the applicant, or full information and/or complete details relating to the applicant's continuous residence and continuous physical presence, as required by 8 C.F.R. § 244.9(a)(2)(vi).

The earliest document showing the applicant's residence and physical presence is the Medicaid letter dated, March 22, 2002. The applicant claims to have lived in the United States since December 22, 2000. It is reasonable to expect that she would have a variety of contemporaneous evidence to support the affidavits she submitted; however, no such evidence has been provided. The applicant has not submitted sufficient credible evidence to establish her qualifying continuous residence and continuous physical presence in the United States. She has, therefore, failed to establish that he has met the criteria described in 8 C.F.R. § 244.2(b) and (c). Consequently, the director's decision to deny the application 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 that burden.

ORDER: The appeal is dismissed.