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FILE: [REDACTED]
[EAC 06 343 81782]

Office: VERMONT SERVICE CENTER

Date: **OCT 31 2007**

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, Vermont Service Center, and is now before the Administrative Appeals Office 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.

The director denied the application because the applicant failed to establish 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 that her husband is a TPS applicant and that she qualifies for TPS because of his eligibility. The applicant further states that she has been present in the United States since December 2000.

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. The designation of TPS for El Salvadorans has been extended several times, 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).

With her application, the applicant submitted the following documentation:

1. A copy of a Commonwealth of Virginia marriage certificate, indicating that she married [REDACTED] on May 16, 2005.
2. A copy of an identification card from Belmont Community Adult School, which shows an address for the applicant of [REDACTED] in Los Angeles, California. The card shows an apparent issue date of February 11, 1975 with an expiration date of "6-01."

3. A copy of a May 1, 2001 receipt indicating that she paid rent for a room at 406 S. Rampart Boulevard in Los Angeles, California
4. A copy of a residential lease indicating that she entered into a lease for premises at [REDACTED] court in Manassas, Virginia from September 1, 2001 to August 31, 2002.
5. Copies of Commonwealth of Virginia birth certificates, indicating that she had a son born in Manassas on December 5, 2002 and another born in Fairfax County, Virginia on August 3, 2005.

On October 31, 2006, the applicant was requested to submit additional 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 did not respond to the request.

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. The record reveals that the applicant filed her application with Citizenship and Immigration Services (CIS) on August 20, 2006. 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 a Form I-821, Application for Temporary Protected Status, on August 19, 2002 [EAC 02-268 50167], which was denied by the Director, Vermont Service Center on August 23, 2003 because the applicant failed to establish continuous residency since February 13, 2001.

As noted, the applicant did not respond to the director's October 31, 2006 request for evidence. The director determined that the applicant had failed to establish she was eligible for late registration and denied the application on June 1, 2007.

On appeal, the applicant submits a copy of her husband's employment authorization card, approved based on his eligibility for TPS, and valid from January 19, 2007 until September 30, 2007. The record shows that the applicant was married on May 16, 2005. In order to be eligible for late registration, however, the qualifying relationship must have existed during the initial registration period. 8 C.F.R. § 244.2(f)(2). Since the applicant, during the initial registration period, was not the spouse of an alien currently eligible to be a TPS registrant, she is not eligible for late registration.

The applicant submitted evidence in an attempt to establish her qualifying 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. The applicant has not submitted evidence 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 conclusion that the applicant had failed to establish her eligibility for late registration will be affirmed.

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.

As stated above, the applicant was requested on October 31, 2006 to submit evidence establishing her qualifying continuous residence and continuous physical presence in the United States. The applicant did not respond to the request for additional documentation.

On appeal, the applicant reasserts her claim and submits the following additional documentation:

1. Copies of earnings statement from Shar Con Hotel Management & Development Company for the pay periods ending November 17, 2001, October 5, 2002, and April 5, 2003.
2. A copy of a Republic of El Salvador passport indicating that it was issued by the Consulate General in Washington, DC in September 2002.
3. A copy of a 2004 Form W-2, Wage and Tax Statement, issued to the applicant by Manassas Inn Associates.
4. A copy of a 2004 Form 1099-MISC, Miscellaneous Income, issued to the applicant by [REDACTED]. We note that the applicant's husband is listed as the payer.
5. A copy of a January 13, 2005 Pregnancy Verification Form issued to the applicant by the Prince William County (Virginia) Health District.
6. A copy of a receipt for medical care at [REDACTED], Virginia dated March 20, 2007.
7. A copy of an April 9, 2007 receipt from [REDACTED].
8. Copies of bank statements addressed to the applicant at [REDACTED] Virginia, dated April 24, 2007 and May 25, 2007.

As noted previously, the applicant submitted documentation indicating that she entered into a lease to rent premises in Manassas, Virginia beginning on September 1, 2001. However, the date of the lease form indicates that it was revised in December 2001; therefore, it is unlikely that the form would have been used to record a lease in September. 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. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988). The applicant also submitted a copy of a May 1, 2001 receipt indicating that she paid rent for a room at [REDACTED] in Los Angeles, California. The applicant submitted no documentation to establish that she was present and living in the United States prior to that date.

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. She 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.