



U.S. Citizenship  
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Services

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FILE: [REDACTED] Office: Vermont Service Center Date: JAN 09 2008  
[EAC 06 348 83553]

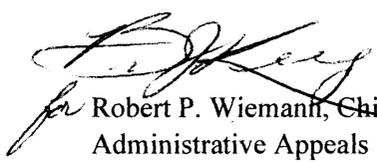
IN RE: Applicant: [REDACTED]

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 office. Any further inquiry must be made to that office.

  
for 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 is 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 record reveals that the applicant filed a late initial TPS application on September 13, 2006, under CIS receipt number EAC 06 348 83553. The director denied the application on February 5, 2007, because the applicant failed to submit evidence to establish her eligibility for late initial registration, her continuous residence in the United States, and her continuous physical presence.

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 as 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 section 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 conditions described in paragraph (f)(2) of this section.

Continuously physically present 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.

Continuously resided 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.

Brief, casual, and innocent absence means a departure from the United States that satisfies the following criteria:

- (1) Each such absence was of short duration and reasonably calculated to accomplish the purpose(s) for the absence;
- (2) The absence was not the result of an order of deportation, an order of voluntary departure, or an administrative grant of voluntary departure without the institution of deportation proceedings; and
- (3) The purposes for the absence from the United States or actions while outside of the United States were not contrary to law.

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 record reflects that the applicant filed her TPS application on September 13, 2006.

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).

To qualify for late registration, the applicant must provide evidence that during the initial registration period, he or 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 he or 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 appeal, the applicant states that she is eligible for late initial registration because she is the spouse of a TPS registrant, and she is submitting evidence that she has resided in the United States since February 13, 2001. With the appeal, the applicant submits additional documents, consisting of photocopies of:

1. A marriage certificate [in Spanish] with an English translation, indicating her marriage in El Salvador, to [REDACTED] on May 8, 1986;
2. Five paystubs issued in 2001; and,
3. Three reference letters.

The first issue in this proceeding is whether the applicant has established eligibility for late initial registration.

The evidence of record does not support the applicant's claim that she is eligible for late initial registration for TPS as the spouse of a TPS registrant.

Although the applicant claims that she married in El Salvador, to [REDACTED] on May 8, 1986, she indicated on her TPS application that she married [REDACTED] in Yuma, Arizona, on an unspecified date in 2001. It is noted also that a review of the TPS file for [REDACTED] reveals that he was married to a different person [named [REDACTED] (DOB: "x/x/57)], in Yuma Arizona, on "x/x/01." It is also noted that the applicant submitted English translations of her marriage certificate that are radically different. For example, one of the translations indicates "NOT STATED" in the section for "Witnesses;" however, in another version, the translation specifies two witnesses [REDACTED] and, [REDACTED]. Similarly, one translation indicates the names of the bride's parents as "NOT STATED;" however, on another version the names of both of the bride's parents are listed. These discrepancies put into question whether the applicant is married to [REDACTED] a TPS registrant, as she claims. It is the applicant's responsibility to address discrepancies in her statements and her supporting documentation. 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 discrepancies in her claimed marital status, supporting documentation, and the record. Therefore, the reliability of the remaining evidence offered by the applicant is suspect and it must be concluded that the applicant has failed to establish that she is eligible for late initial registration as the spouse of a TPS registrant as required under 8 C.F.R. § 244.2(f)(2). Consequently, the director's conclusion that the applicant has not the requirements for late initial registration is affirmed.

The next issue in this proceeding is whether the applicant has established her continuous residence and her continuous physical presence in the United States.

The applicant did not submit sufficient evidence to establish that she had continuously resided in the United States since February 13, 2001, and that she had been continuously physically present from March 9, 2001 to the date of filing September 13, 2006. The evidence of record consists primarily of paystubs dated in 2001, and reference letters, which are not supported by any corroborative evidence. It is reasonable to expect that the applicant would have sufficient contemporaneous evidence to establish the requisite continuous residence and physical presence requirement; however, no such evidence has been provided for the years 2002 through the date of filing in 2006. Furthermore, the paystubs and uncorroborated reference letters carry little evidentiary weight and will not serve to establish the applicant's eligibility. Therefore, the director's decision to deny TPS for these reasons must 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.