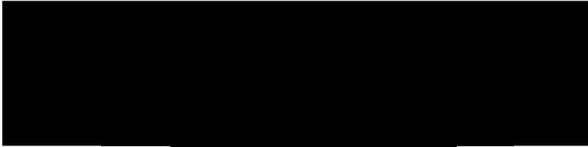


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U.S. Citizenship  
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Services

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FILE: [REDACTED]  
[EAC 06 35681411]

Office: VERMONT SERVICE CENTER

Date: JUN 27 2008

INRE: 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:



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.

A handwritten signature in cursive script, appearing to read "R. Wiemann".

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 denied the application because the applicant had failed to establish her **qualifying** continuous residence and continuous physical presence in the United States during the requisite periods.

On appeal, counsel asserts the applicant has continuously resided in the United States since the inception of the TPS program. Counsel states the applicant cannot provide a paper trail of her continuous residence, but can provide witnesses on her behalf.

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)
  - (I) 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 parole; 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 EI 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 EI 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).

The first issue in this proceeding is whether the applicant is eligible for late registration.

The initial registration period for EI Salvadorans was March 9, 2001, through September 9, 2002. The record reveals that the applicant filed her initial application under receipt number EAC0225851496 on August 5, 2002. On June 18, 2003, the application was denied due to abandonment. The applicant's motion to reopen from the denial of that application was granted, and on September 23, 2004, the director reopened the proceedings and reaffirmed his previous decision.

The applicant filed her second TPS application under receipt number WAC0522884675 on April 21, 2005, and indicated that she was re-registering for TPS. The director denied the re-registration application on September 27, 2005, because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS.

The applicant filed the current TPS application on August 29, 2006, and indicated that it was a late registration filing. The director determined that the applicant had failed to establish she was eligible for late registration and denied the application on August 7, 2007.

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 on January 9, 2007, the director issued a notice denying the applicant's employment authorization. On June 20, 2007, CIS received a brief from prior counsel indicating that the applicant had filed a late registration application on August 29, 2006, because she was a spouse of an alien currently eligible to be a TPS registrant. As evidence, counsel submitted a copy of the employment authorization card of [REDACTED], an El Salvadoran national, and a March 26, 1998, marriage certificate with English translation.

The record, however, shows that on Form 1-821 applications signed by the applicant on July 24, 2002, and October 22, 2002, the applicant certified under penalty of perjury that she was single. At Part 3 on each application, which requested information about her spouse, the applicant indicated that she had no spouse and left the blocks blank pertaining to the date and place of marriage and the spouse's name, and date of birth. The applicant also certified that she was single when she signed the Form 1-765 application on October 22, 2002.

In addition, the authenticity of the marriage certificate is called into question as the actual name of the individual to whom the applicant appears to have married had been deleted and [REDACTED]'s name was added at a later time. Furthermore, [REDACTED] indicated on his Form 1-821 application signed on April 30, 2001, that he was single.

Doubt cast on any aspect of an applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence. *Matter of Ho*, 19 I&N Dec. 582, 591 (BIA 1988).

These factors establish that the applicant utilized the marriage document in a fraudulent manner in an attempt to meet the criteria for late registration as a spouse of an alien currently eligible to be a TPS registrant. By engaging in such an action, the applicant has irreparably harmed her own credibility.

Consequently, the applicant has not submitted any credible evidence to establish that she has met any of the criteria for late registration described in 8 C.F.R. § 244.2(f)(2). The director's decision to deny the application for TPS 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.

In an attempt to establish her continuous residence and physical presence in the United States the applicant, throughout the application process, submitted letters from employers who attested to the applicant's employment along with affidavits from affiants who attested to the applicant's residence and physical presence during the requisite periods.

The documents, however, are not sufficient to meet the applicant's burden of proof of residence and physical presence in the United States for the requisite periods as the record reflects that on April 5, 2001, the

applicant was refused an entry visa at the San Salvador Consular Office in El Salvador.<sup>1</sup> This contradicts the applicant's claim to have been continuously residing in the United States since February 13, 2001, and irreparably harmed the credibility of the affiants who attested to the applicant's *continuous residence* in the United States since that time. The applicant 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.

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<sup>1</sup> This information was obtained from the United States Department of State, Bureau of Consular Affairs on March 21, 2008.