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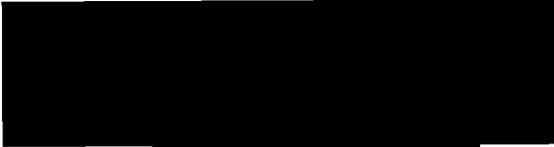
U.S. Department of Homeland Security  
U. S. Citizenship and Immigration Services  
Office of Administrative Appeals MS 2090  
Washington, DC 20529-2090



U.S. Citizenship  
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FILE: [REDACTED]  
[EAC 09 094 71133]

Office: VERMONT SERVICE CENTER

Date: **MAR 03 2010**

IN RE: Applicant:



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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider, as required by 8 C.F.R. 103.5(a)(1)(i).

Perry Rhew  
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 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 determined that the applicant failed to establish she: 1) had continuously resided in the United States since February 13, 2001; 2) had been continuously physically present in the United States since March 9, 2001; and 3) was eligible for late registration. The director, therefore, denied the application.

On appeal, the applicant states that she applied for TPS during the initial registration period and it was granted.

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*, 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.

*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 that they have continuously resided in the United States since February 13, 2001, and that they have been continuously physically present in the United States since March 9, 2001. On July 9, 2002, the Attorney General announced an extension of the TPS designation until September 9, 2003. Subsequent extensions of the TPS designation have been granted, with the latest extension granted until September 9, 2010, upon the applicant's re-registration during the requisite period.

The initial registration period for El Salvadorans was from March 9, 2001 through September 9, 2002. The record shows that the applicant filed this application on December 17, 2008. The applicant filed her initial TPS application on May 7, 2001. That application was denied by the Director, California Service Center, on April 27, 2004 because the applicant failed to establish continuous residence and continuous physical presence in the United States.

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 United States Citizenship and Immigration Services (USCIS). 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 record of proceeding confirms that the applicant filed her application after the initial registration period had closed. To qualify for late registration, the applicant must provide evidence that during the initial registration period from March 9, 2001 through September 9, 2002, she fell within the provisions described in 8 C.F.R. § 244.2(f)(2) (listed above). If the qualifying condition or application has expired or been terminated, the individual must file within a 60-day period immediately following the expiration or termination of the qualifying condition in order to be considered for the late initial registration. 8 C.F.R. § 244.2(g).

On April 27, 2004, the applicant was informed of the reasons for the denial of her initial TPS application. The director determined that the applicant had not provided any new and compelling evidence that overcomes the basis for denying the initial TPS application. In addition, the director determined that the applicant had failed to establish her eligibility for late registration with the current application. Therefore, the director denied the application.

On appeal, the applicant states that she filed her TPS application during the initial registration period and it was granted. However, the initial application was denied, as discussed above. According to the applicant, she decided that she could not afford to appeal the decision on the initial application. The applicant also submits evidence in an attempt to establish her continuous residence and physical presence in the United States during the qualifying period. However, this does not mitigate the applicant's failure to file her TPS application within the initial registration period. The applicant has not submitted sufficient 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 failed to establish her eligibility for late registration will be affirmed.

The second and third issues in this proceeding are whether the applicant has established her continuous residence in the United States since February 13, 2001, and her continuous physical presence in the United States since March 9, 2001.

In support of her TPS application, the applicant submitted copies of her State of California Identification Card issued on August 21, 2003; a Los Angeles Unified School District Address Verification Form dated June 23, 2004; her birth certificate, with English translation; a License and Certificate of Marriage issued on December 2, 2008; Certificates of Live Birth with birth dates of March 22, 2000 and August 29, 2005; medical records from Northridge Hospital Medical Center dated March 23, 2000; Immunization Records indicating inoculations beginning on September 25, 2000 and November 2, 2005; 2005, 2006, and 2007 Form 1040, U.S. Individual Income Tax Returns; money order receipts dated April 9, 2001, August 10, 2002, February 5, 2005, July 11, 2006; and a statement from [REDACTED], the applicant's husband. The applicant also submitted evidence that is already part of the record.

As stated above, the applicant was informed on April 27, 2008 of the reasons for the denial of her initial TPS application. The applicant did not provide any additional evidence to overcome the basis for the denial of the director's decision.

The director concluded that the applicant had failed to establish her qualifying residence and physical

presence in the United States during the requisite periods and denied the application. On appeal, the applicant submits:

1. Copies of the applicant's employment authorization cards issued on August 13, 2001, September 10, 2002, and January 8, 2004; employment authorization cards of the applicant's husband issued on August 20, 2001, September 10, 2002, April 24, 2005, February 8, 2008 and March 9, 2009; and an El Salvadoran Passport issued in Los Angeles, California on July 1, 2009.
2. Copies of various identification cards for the applicant's children dated from September 1, 2000 to 2008; a Washington Mutual Visa Card with an unreadable issue date; a State of California Benefits Identification Card issued on January 24, 2000; a City of Los Angeles Taxpayer's Payment Receipt dated February 24, 2009 and 2008 tax documents.

The applicant also resubmits evidence previously provided.

The passport and birth certificate establish the applicant's identity and nationality. The State of California Benefits Identification Card indicates the applicant was present in the United States prior to the requisite dates to establish continuous residence and continuous physical presence. The remaining evidence is dated subsequent to the dates to establish continuous residence and continuous physical presence in the United States. [REDACTED] requests that his wife's application be taken into consideration. [REDACTED] appears to indicate that she is eligible for TPS because she is his spouse. While United States Citizenship and Immigration Services (USCIS) regulations may allow spouses of TPS beneficiaries to file their applications after the initial registration period had closed; these regulations do not relax the requirements for eligibility for TPS. One of the requirements is that the applicant must have been in qualifying status during the initial registration period. The applicant submitted documentation to establish that she was married on December 2, 2008.

The applicant has not submitted sufficient evidence to establish her qualifying residence since February 13, 2001, and her continuous physical presence in the United States from March 9, 2001 to the date the application was filed. 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 temporary protected status 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 temporary protected status 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.