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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

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[REDACTED]

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FILE: [REDACTED] Office: VERMONT SERVICE CENTER

Date: MAR 30 2011

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:

[REDACTED]

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the Vermont Service Center. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. All motions must be submitted to the Vermont Service Center by filing a Form I-290B, notice of Appeal or Motion, with a fee of \$630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Vermont Service Center. It is now on appeal before the Chief, Administrative Appeals Office (AAO). The appeal will be dismissed.

The applicant is a citizen of El Salvador who is applying for 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 on the grounds that the applicant failed to establish that she was (1) eligible for late registration and (2) continuously resident and physically present in the United States since the requisite dates in 2001.

On appeal, counsel asserts that the director's decision was erroneous and that the applicant is eligible for TPS.

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 designated by the Secretary of Homeland Security (Secretary) 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 Secretary 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.

El Salvadoran nationals applying for TPS must demonstrate that they have continuously resided in the United States since February 13, 2001, and that they have been continuously physically present since March 9, 2001.

The initial registration period for El Salvadorans was from March 9, 2001 through September 9, 2002. The applicant filed her application with U.S. Citizenship and Immigration Services (USCIS) on December 15, 2009.

To qualify for late registration, the applicant must provide evidence that during the initial registration period she met at least one of the conditions described in 8 C.F.R. § 244.2(f)(2) above.

On February 25, 2010, the applicant was requested to submit evidence establishing her eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2), as well as her continuous residence in the United States since February 13, 2001, and her continuous physical presence in the United States since March 9, 2001.

Counsel responded on March 29, 2010, and submitted some documentation – mostly school and health records – on behalf of the applicant. None of these materials addressed the issue of the applicant's late TPS registration. Moreover, the materials confirmed that the applicant did not enter the United States until November 1, 2001. This date is indicated on a B-2 (visitor's) visa the applicant was issued on August 10, 2001, which contains a stamp by the legacy Immigration and Naturalization Service (INS) that recorded her admission to the United States at Houston, Texas, on November 1, 2001.

On April 29, 2010, the director issued a decision denying the application on the grounds that the applicant had failed to establish her eligibility for late registration, her continuous residence in the United States since February 13, 2001, and her continuous physical presence in the United States since March 9, 2001.

On appeal, counsel submits a brief and some additional school records for the applicant between 2002 and 2006. Though counsel asserts that the director's decision was erroneous, he has not submitted any additional evidence to establish the applicant's eligibility for late registration in accordance with 8 C.F.R. § 244.2(f)(2), and has ignored the clear evidence that she cannot meet the continuous residence and physical presence requirements because she did not enter the United States until November 1, 2001.

Thus, the applicant is not eligible for TPS. She has not been continuously physically present in the United States from March 9, 2001, and continuously resident in the United States from February 13, 2001, as required for TPS applicants from El Salvador under 8 C.F.R. § 244.2(b) and (c). Moreover,

she does not meet any of the conditions set forth under 8 C.F.R. § 244.2(f)(2) to qualify for late TPS registration. Accordingly, the director's decision will be affirmed.

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.