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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
and Immigration
Services**

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DATE: **OCT 03 2011** Office: VERMONT SERVICE CENTER FILE:

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:

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.

Thank you,

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Vermont Service Center. A subsequent appeal was dismissed by the Administrative Appeals Office (AAO). The matter is now before the AAO on a motion to reopen and motion to reconsider. The motion will be granted. The case will be remanded for further action by the director.

At the time the applicant filed her appeal she was represented by counsel. However, there is no indication that counsel is representing the applicant on motion as a new Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative, was not submitted with the Form I-290B, Notice of Appeal or Motion.¹ As such, the decision will be furnished only to the applicant.

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 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. The AAO, in dismissing the appeal on September 7, 2010, concurred with the director's findings.

A motion to reopen must state the new facts to be proved at the reopened proceeding, and be supported by affidavits or other documentary evidence. 8 C.F.R. § 103.5(a)(2).

A motion to reconsider must state the reason for reconsideration and be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or Service policy ... [and] must, when filed, also establish that the decision was incorrect based on the evidence of record at the time of the initial decision. 8 C.F.R. § 103.5(a)(3).

A motion that does not meet applicable requirements shall be dismissed. 8 C.F.R. § 103.5(a)(4).

On motion, the applicant reasserts that she and [REDACTED] are one and the same. The applicant requests that the set of fingerprints she is submitting be compared to the set of fingerprints sent with her asylum application on June 22, 1993. The applicant submits additional copies of the birth certificates of her children, [REDACTED], the school transcripts of [REDACTED] and two Forms I-797C, Notice of Action, for [REDACTED] issued in 2005 and 2006.

A review of documents submitted with the asylum and TPS applications along with U.S. Citizenship and Immigration Services records leads to the conclusion that the applicant and [REDACTED] are one and the same. The applicant has, therefore, established her eligibility for late registration and the director's finding on this issue will be withdrawn.

¹ See 75 Fed. Reg. 5225 (February 2, 2010), 8 C.F.R. 292.4(a).

However, the additional documents submitted in an attempt to establish her continuous residence and continuous physical presence in the United States were not sufficient to establish TPS eligibility.

On August 5, 2011, the AAO sent a notice to the applicant, which advised her that her child's school transcripts from the middle and senior high schools only served to establish continuous residence and continuous physical presence in the United States since 2004. The wage and tax statements (Form W-2) from [REDACTED] and the earnings statement from Events Support Services had no probative value as they were addressed to [REDACTED]. The applicant had not provided any evidence from these entities establishing that she and [REDACTED] are one and the same. Likewise, as the documents from the City of Los Angeles Municipal Services and the Los Angeles Department of Water and Power were addressed to [REDACTED] they had no probative value.

The applicant, in response, submitted:

- A photocopied California identification card issued on October 4, 1991, in the name of [REDACTED]
- A college/vocational identification card in the name of [REDACTED] valid from September 1, 2001 to March 2002.
- [REDACTED] check cashing identification cards in the name of [REDACTED], issued on June 1, 1995 and October 18, 1999.
- Identification cards in the name of [REDACTED] from [REDACTED] (issued (October 27, 1993) [REDACTED] check cashing (issued October 5, 1997), and The Westin (issued on April 19, 2002.
- A letter dated August 19, 2011, from the director of human resources of The [REDACTED], who indicated that the applicant was employed by its managing company, [REDACTED], under the name [REDACTED] from April 19, 2002 through March 20, 2007, and under the name [REDACTED] from March 20, 2007 through November 9, 2008.
- Copies of her son's, [REDACTED] school transcripts from the Los Angeles Unified School District, which reflect that the son attended kindergarten through grade 5 from September 3, 2002 to June 19, 2008, and grades 7 and 8 from September 2009 to June 24, 2011.
- Additional copies of her son's, [REDACTED] school transcripts from Manual Arts High School in Los Angeles, California, which reflects that the son attended middle and senior high schools from July 6, 2004 to April 23, 2010.
- Copies of her son's, [REDACTED] school transcripts from the Los Angeles Unified School District, which reflect that the son attended kindergarten through grade 5 from September 11, 1997 to June 30, 2003.

The documents provided on motion establish the applicant's continuous residence in the United States since February 13, 2001, and her continuous physical presence in the United States from

March 9, 2001 to the filing of the [REDACTED] application. Consequently, the applicant has submitted sufficient evidence to establish that she has met the criteria described in 8 C.F.R. § 244.2(b) and (c). Therefore, the director's decision to deny the application on these grounds will also be withdrawn. However, the validity period of the applicant's fingerprint check has expired.

Accordingly, the case will be remanded for the purpose of sending the applicant a fingerprint notification form, and affording her the opportunity to comply with its requirements. Following completion of this requirement, the director will render a new decision. Should the decision be adverse, the director must give written notice setting forth the specific reasons for the denial pursuant to 8 C.F.R. § 103.3(a)(1)(i), and the applicant shall be permitted to file an appeal without fee.

ORDER: The motion is granted. The decisions of the Director, Vermont Service Center, dated January 16, 2008, and of the AAO dated September 7, 2010, are withdrawn. The matter is remanded for further action by the director.