

identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy

**PUBLIC COPY**

**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**

M<sub>1</sub>

[REDACTED]

DATE:

**APR 10 2012**

Office: VERMONT SERVICE CENTER

FILE

[REDACTED]

IN RE:

Applicant:

[REDACTED]

APPLICATION:

Application for Temporary Protected Status under Section 244 of the  
Immigration and Nationality Act, 8 U.S.C. § 1254a

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.

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, 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.

On appeal, the applicant submits additional evidence in an attempt to establish her claimed common-law marriage of July 2002.

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 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 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.

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. Subsequent extensions of the TPS designation have been granted, with the latest extension granted until September 9, 2013, upon the applicant's re-registration during the requisite period.

The record reflects that the applicant filed her initial TPS application on November 22, 2010.

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 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 U.S. 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).

At the time the applicant filed her application, she presented a copy of an employment authorization card (A12) belonging to [REDACTED], her birth certificate with English translation and uncertified Forms 1040, U.S. Individual Income Tax Return, for 2002 to 2006.

On March 4, 2011, the applicant was informed that she did not submit a copy of a marriage certificate indicating that a marriage occurred during the initial registration period of March 9, 2001 to September 9, 2002. The applicant, in response, provided an unsigned statement from [REDACTED] who indicated, in pertinent part:

we lived together since August 2002, but at the Office of County here in Dallas the person who made the Informal Marriage told us my wife is 17 years old on 2002 but we have parents consent to live together since August 2002 but she do not accept the letter from her parents and told me: "I put July 2003 when she has 18 years old". But the only proof we have is the Income Tax Return we filed together since that year to the present and also send some receipts of purchases together.

The applicant also provided:

- A Declaration and Registration of Informal Marriage signed by the County Clerk of Dallas County, Texas, on July 20, 2006. The document indicated that the applicant and [REDACTED] solemnly swore (or affirmed) that “on or about July 15, 2003, we agreed to be married, and after that date we lived together as husband and wife in this state we represented to others that we were married.”
- Income tax returns and Forms W-2, wage and tax statement, for 2007 to 2010.
- Letters written in the Spanish language without the required English translation.
- Money order receipts dated in 2001.

The director, in denying the application on June 2, 2011, determined that the applicant had failed to submit any documentary evidence to support [REDACTED] statement. The director concluded that the applicant had failed to establish she was eligible to take advantage of the late registration provisions of TPS.

On appeal, the applicant submits:

- A declaration written in the Spanish language with English translation from the applicant’s parents, who attested to the applicant residing with [REDACTED] since July 17, 2002. The parents indicated, “[t]his declaration under OATH is to confirm that we are in agreement and consent to our daughter marrying him, since they have been living together since our daughter was 17<sup>th</sup>, we want to make it clear, and it was under our consent. The declaration is dated June 14, 2011.
- An affidavit notarized June 21, 2011, from [REDACTED] of Irving Texas, who attested to the applicant and [REDACTED] residing together since July 17, 2002. The affiant indicated that the applicant and [REDACTED] resided with her niece at [REDACTED] Dallas Texas, and that she has kept in touch with the applicant since that time.
- An affidavit notarized June 17, 2011 from [REDACTED] of Granbury, Texas, who indicated that he met the applicant in 2002 and that [REDACTED] who is a valued employee, and the applicant were married in 2003. The affiant indicated, “I swear they have been together with their families consent since 2002.”
- A letter dated June 19, 2011, from Reverend [REDACTED], minister at Iglesia Santa [REDACTED] in Irving, Texas, who indicated that the applicant and Mr. Carballos have been active members of its church since June 2001.
- An affidavit notarized June 20, 2011, from [REDACTED] of Dallas, Texas, who indicated that he has known the applicant and Mr. [REDACTED] since 2002 when he was a neighbor, and has remained good friends with them since that time. The affiant indicated, “[a]s far I’m concern, I know that her parents knew of their relationship and they agreed with that.”

- A letter dated July 26, 2002 from a representative at The Chase Manhattan Bank addressed to the applicant and Mr. [REDACTED] at 2319 [REDACTED], Dallas, Texas.
- A letter dated August 8, 2002 and addressed to the applicant at 2319 [REDACTED] 813, Dallas, Texas from AmeriPath North Texas, requesting the applicant's most current insurance information.
- An envelope postmarked August 17, 2002 from American Travel Research, Inc., and addressed to the applicant and Mr. [REDACTED] at 2319 [REDACTED] Dallas, Texas.

Texas Family Code Chapter 2, section 2.102(a) provides if an applicant is 16 years of age or older but under 18 years of age, the county clerk shall issue the license if parental consent is given as provided by this section. In addition to the other requirements, a person under 18 years of age applying for a license must provide to the county clerk: (1) documents establishing, as provided by section 2.102, parental consent for the person to the marriage; (2) documents establishing that a prior marriage of the person has been dissolved; or (3) a court order granted under Section 2.103 authorizing the marriage of the person. *See* Texas Family Code Chapter 2, section 2.003.

Texas Family Code Chapter 2, section 2.404(b) provides that a county clerk shall not certify the declaration or issue or record the certificate of informal marriage or declaration if: (1) either party fails to supply any information or provide any document required by this subchapter; (2) either party is under 18 years of age; or (3) either party checks "false" in response to the statement of relationship to the other party.

Although the applicant submits two documents addressed to [REDACTED], a finding of the existence of a common-law marriage or informal marriage is only justified if the evidence shows that the parties agreed to be married and that they lived together in Texas as husband and wife, and that they have publicly represented themselves as married. All three of these requisites must exist at the same time. The applicant has failed to demonstrate that her common-law marriage existed during the initial registration period of March 9, 2001 through September 9, 2002. Specifically:

1. No evidence from the County Clerk of Dallas County to support Mr. [REDACTED]'s statement was submitted. It is noted that the declaration of the applicant's parents makes no mention of issuing the required consent at the time the Declaration and Registration of Informal Marriage was filed.
2. The income tax return for 2002 has no evidentiary weight or probative value as it was not certified as being filed. *See* 8 C.F.R. § 244.9(a)(2)(i). Furthermore, the applicant was not listed as a spouse; rather she was listed as an exemption.
3. On his TPS re-registration applications signed in September 2002, July 2003, January 2005, July 2006 and August 2007, Mr. [REDACTED] did not claim a common-law marriage as he is listed as single and left Part 3 (information about a spouse) blank.

4. On his TPS re-registration applications filed on January 4, 2009 and July 29, 2010, Mr. [REDACTED] claimed to be married and listed his date of marriage as July 15, 2003.
5. The affidavit from Ms. [REDACTED] raises questions to its authenticity as Mr. [REDACTED] on his TPS application signed September 9, 2002, did not list his residence at "813 Famous Dr., Dallas, Texas" or at "2319 Famous Apt. 813, Dallas, Texas."
6. The remaining affiants failed to state the applicant's place of residence during the period in question.
7. The letter from Reverend Portillo has little evidentiary weight or probative value as it does not conform to the basic requirements specified in 8 C.F.R. § 244.9(a)(1)(v). Most importantly, the pastor does not explain the origin of the information to which he attests.

Doubt cast on any aspect of the evidence may lead to a reevaluation of the reliability and sufficiency of the remaining evidence. It is incumbent upon an 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, in fact, lies, will not suffice. *See Matter of Ho*, 19 I&N Dec. 582 (BIA 1988).

Given the credibility issues arising from the documentation provided by the applicant, it is determined that the applicant has not met her burden of proof. The applicant has, therefore, failed to establish that she has met the criteria for late registration described in 8 C.F.R. § 244.2(f)(2)(iv). Consequently, the director's decision to deny the application for TPS 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.