

identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy

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

**PUBLIC COPY**

[REDACTED]

M1

DATE: Office: VERMONT SERVICE CENTER FILE: [REDACTED]

**MAR 13 2012**  
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:

[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, and is now before the Administrative Appeals Office (AAO) 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 found that 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 that the applicant arrived in the United States on January 25, 2001. Counsel submits additional documents in an attempt to establish the applicant's continuous residence and continuous physical presence in the United States.

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 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.

The term *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 term *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 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 El Salvadorans has been extended several times, with the latest extension valid until September 9, 2013, 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 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).

The AAO conducts appellate review on a *de novo* basis. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004).

The first and second issues to be addressed 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.

Along with her TPS application, the applicant submitted:

- A letter dated August 10, 2010, from [REDACTED] who indicated she was a coworker of the applicant in 2001.
- A letter dated August 22, 2010, from Reverend [REDACTED] pastor of [REDACTED] who indicated that he has known the applicant since 2000, and that the applicant attends his church.
- A letter dated August 28, 2010, from [REDACTED] who indicated that he has known the applicant since 1984 in El Salvador. The affiant indicated that at the time the applicant "arrived in January 2001, she struggled to get on her feet thus my family and I provided financial as well as emotional support and the applicant resided with him for a year. She stayed with us for about a year then moved in with a few of her friends."

On January 6, 2011, the applicant was requested to submit evidence establishing her qualifying continuous residence and continuous physical presence in the United States. The applicant, in response, provided a residential lease agreement entered into on February 1, 2001 between the applicant and [REDACTED] which indicates the applicant rented property at [REDACTED] from February 1, 2001 to February 1, 2002.

The director determined that the applicant had established her residence from February 13, 2001 through February 2002, but had failed to establish continuous residence subsequent to February 2002. The director also determined that the applicant had failed to establish continuous physical presence from March 9, 2001 to the date of filing, and that the three letters from the affiants were not, by themselves, persuasive evidence to support an assertion of continuous physical presence for the requisite period. Accordingly, on May 31, 2011, the director denied the application.

On appeal, counsel resubmits a copy of residential lease agreement along with:

- A residential lease agreement entered into on March 1, 2002, between the applicant and [REDACTED] which indicates that the applicant rented property at [REDACTED] from March 1, 2002 to March 1, 2003.
- A rent receipt dated March 2, 2001, from [REDACTED]
- An unsigned letter dated August 10, 2010, from [REDACTED]
- An advance notice of lease termination dated March 31, 2004, for premises at [REDACTED]
- A document from [REDACTED] which indicates that the applicant has been a customer since February 10, 2005.
- A medical document from Southwestern Medical Center dated July 5, 2006, and an account receipt for July 1, 2008 to January 7, 2009, from Northside ObGyn in Dallas, Texas.
- An envelope postmarked October 19, 2007.

- An account receipt for January 20, 2009 to August 13, 2009, from [REDACTED]
- Two photographs, which the applicant claims were taken in 2005.

The AAO disagrees with the director's finding that the applicant had established residence from February 13, 2001 to February 2002 as the applicant presented contradictory documents. Specifically, the letter from [REDACTED] indicated that the applicant resided with him for a year upon her January 2001 arrival in the United States. The applicant then submitted a residential lease agreement which indicated she resided at a different address during the same time period.

Without adequately resolving the contradictory documents through credible evidence, the documents from [REDACTED] and [REDACTED] have little probative value or evidentiary weight.

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).

The applicant has not submitted sufficient credible evidence to establish her qualifying continuous residence in the United States since February 13, 2001, or her continuous physical presence in the United States since March 9, 2001. 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 be affirmed.

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

The initial registration period for El Salvadorans was from March 9, 2001, through September 9, 2002. The record reveals that the applicant filed her application on September 3, 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.

On January 6, 2011, the applicant was also requested to submit evidence establishing her eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2). The applicant, in response, only submitted evidence in an attempt to establish her continuous residence and continuous physical presence in the United States during the requisite periods.

On appeal, the applicant through counsel neither addresses the finding of her ineligibility as a late registrant nor provides any evidence to establish her eligibility as a late registrant.

The provisions for late registration were created in order to ensure that TPS benefits were made available to aliens who did not register during the initial registration period for the various circumstances specifically identified in the regulations. The applicant has not submitted evidence

that she has met one of those provisions outlined in 8 C.F.R. § 244.2(f)(2). Consequently, the director's conclusion that the applicant had failed to establish her eligibility for late registration 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.