



U.S. Citizenship
and Immigration
Services

(b)(6)



DATE: **JUL 09 2015**

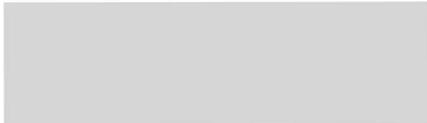
Office: VERMONT SERVICE CENTER

FILE: 

IN RE: Applicant: 

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

ON BEHALF OF APPLICANT:



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,

A handwritten signature in black ink, appearing to read "Ron Rosenberg".

Ron Rosenberg
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 Honduras who is applying for Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254a. On September 1, 2011, the director denied the application because the applicant failed to establish that she was eligible for late registration. The director also denied the application because the applicant had failed to establish her continuous residence and continuous physical presence in the United States during the requisite periods.

On appeal, the applicant through counsel submits a brief to explain the inconsistencies regarding her husband's name, date of birth and date of marriage. The applicant reaffirms her marriage to [REDACTED] on [REDACTED] 1987 in Honduras and resubmits her marriage certificate. The applicant also submits copies of Mr. [REDACTED] employment authorization card, birth certificate with English translation and another marriage certificate indicating a marriage between her and [REDACTED] on [REDACTED], 2010 in [REDACTED], Florida.

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 Hondurans must demonstrate that they have continuously resided in the United States since December 30, 1998, and that they have been continuously physically present since January 5, 1999. The initial registration period for Hondurans was from January 5, 1999, through August 20, 1999. Subsequent extensions of the TPS designation have been granted, with the latest extension granted until July 5, 2013, upon the applicant's re-registration during the requisite 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).

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. 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).

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

The first issue to be addressed is whether the applicant is eligible for late registration based on her claim to be married to a TPS registrant. The record contains a marriage certificate with English translation indicating a marriage to [REDACTED] on [REDACTED], 1987 in Honduras.

An initial TPS application () was filed on June 10, 2002, which was denied on July 15, 2002, by the Director, Texas Service Center, because the applicant failed to establish that she was eligible for late registration. In dismissing the appeal on January 14, 2003, we concurred with the director's findings.

The applicant filed another TPS application () on November 21, 2004 and indicated at Part 1 that she was filing for annual registration/re-registration. The Director, California Service Center determined that the applicant had filed a re-registration application and on June 30, 2005, denied the application because the initial TPS application had not been granted so that she was not eligible to apply for re-registration for TPS. In dismissing the appeal on August 28, 2006, we concurred with the director's findings. Upon a *de novo* review, we noted that the director did not contemplate the possibility that the applicant may have been attempting to file a late initial application for TPS. It was determined that there were numerous inconsistencies in the applicant's claimed marriage to () including the name and date of birth of her spouse and date of marriage, which had not been resolved and, therefore, the applicant had not credibly established late registration eligibility under 8 C.F.R. § 244.2(f)(2)(iv). It was also determined that the applicant had failed to establish continuous residence and continuous physical presence in the United States during the requisite periods.

The applicant submitted several TPS applications from May 12, 2006 through November 18, 2008, which have been either administratively closed or rejected as improperly filed.

The applicant filed the current TPS application on June 23, 2010 and indicated that she is a spouse of an alien currently eligible to be a TPS registrant. The director denied, in part, the current application because the applicant had not provided any new and compelling evidence that overcame the reason(s) for denying the initial TPS application.

The director, in denying the application, noted that on the initial TPS application, the applicant had indicated that she was married to " () " in Honduras in 1986, and listed his date of birth as () ; that on the application received in 2003, the applicant indicated that she was married to " () " in Honduras on (), 1987 and listed his date of birth as () ; that on her application filed on November 21, 2004, the applicant indicated she was married to ' () ', but failed to provide his date of birth or the date of marriage; and that on the current application, the applicant indicated that she was married to " () " in Honduras on () 1987 and listed his date of birth () . The director determined that the discrepancies had not been sufficiently explained.

Based on the inconsistencies regarding the applicant's claimed marriage to () () USCIS initiated an overseas verification with the assistance of the U.S. Embassy in Honduras. A scanned copy of the applicant's marriage certificate was sent to the U.S. Embassy for authentication, which was determined to be fraudulent. Specifically, the marriage certificate

number issued by the Honduras Official File Registrar relates to a marriage between two other individuals.

On December 17, 2014, we issued a notice to the applicant informing her of the adverse information regarding the fraudulent marriage certificate and our intent to dismiss the appeal based on this finding. The applicant was advised that based on the submission of the fraudulent Honduran marriage certificate, she was not eligible for late registration as a spouse of an alien currently eligible to be a TPS registrant. The applicant was granted 30 days to provide substantial evidence to overcome, fully and persuasively, this finding. To date, no response has been submitted by the applicant.

It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the applicant submits competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

The record contains a fraudulent marriage certificate submitted by the applicant. The applicant has offered no explanation concerning the use of this fraudulent document. The more recent 2010 marriage certificate cannot serve to establish late registration as the marriage did not occur during the initial registration period (January 5, 1999, through August 20, 1999). The applicant has therefore failed to establish that this application should be accepted as a late initial registration under 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 be affirmed.

It is thus determined that the applicant is inadmissible to the United States due to her attempt to obtain an immigrant benefit based on a fraudulent marriage. Any alien who, by fraud or willfully misrepresenting a material fact, seeks to procure (or has sought to procure or has procured) a visa, other documentation, or admission into the United States or other benefit provided under this Act is inadmissible. Section 212(a)(6)(C)(i) of the Act. Although a waiver may cure the applicant's inadmissibility to the United States the fact remains that the applicant will remain ineligible for TPS based on the ground addressed above.

The second and third issues in this proceeding are whether the applicant has established continuous residence in the United States since December 30, 1998, and continuous physical presence in the United States since January 5, 1999.

The director determined that the documents submitted were insufficient to establish continuous residence and continuous physical presence during the requisite periods.

On appeal, the applicant has not addressed the director findings that she had failed to establish continuous residence and continuous physical presence in the United States and has not provided any evidence to overcome the findings. Inasmuch as the applicant has failed to identify specifically an erroneous conclusion of law or a statement of fact in the director's decision, it

must be concluded that the applicant has failed to satisfy the continuous residence and continuous physical presence requirements 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 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.