



U.S. Citizenship  
and Immigration  
Services

(b)(6)



DATE: **MAR 25 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. § 1254

ON BEHALF OF APPLICANT:



INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied the law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements. See also 8 C.F.R. § 103.5. Do not file a motion directly with the AAO.**

Thank you,

Ron Rosenberg  
Chief, Administrative Appeals Office

**DISCUSSION:** The applicant's Temporary Protected Status application was denied by the Director, Vermont Service Center. The matter is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The applicant is a native and 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. On August 7, 2012, the director denied the application because the applicant failed to establish that he was eligible for late initial registration for TPS based on his marriage to a TPS registrant. The marriage certificate provided to establish the claimed marriage occurred before or during the initial registration period was found to be fraudulent. The director also found that the applicant failed to establish the requisite continuous residence and continuous physical presence in the United States.

On appeal, the applicant, through counsel, asserts that the director erred in denying the application, because the marriage certificate translation was misunderstood. He also asserts that he has established the requisite continuous residence and physical presence. The applicant submits additional evidence, specifically, a declaration from the applicant, a copy of a Salvadoran marriage certificate with English translation, reference letters, a rent receipt letter, a 2002 Form W-2, and a church membership letter.

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 Attorney General 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 Attorney General 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 parole; 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 since March 9, 2001. The initial registration period for Salvadorans was from March 9, 2001, through September 9, 2002. The record reveals that the applicant filed his initial application with U.S. Citizenship and Immigration Services (USCIS) on June 21, 2002.

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 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 threshold issue in this proceeding is whether the applicant has established his eligibility for late initial registration.

The initial registration period for El Salvadorans was from March 9, 2001 through September 9, 2002. To qualify for late registration, the applicant must provide evidence that during the initial registration period he fell within at least one of the provisions described in 8 C.F.R. § 244.2(f)(2) above.

The record reflects that the applicant filed his initial TPS application on June 21, 2002, and it was denied for failure to respond to a request for evidence on April 24, 2003. He subsequently attempted to establish his eligibility for late initial registration as the spouse of a TPS registrant, and the applicant submitted a marriage certificate showing that they were married on [REDACTED] 1999, in El Salvador. The director noted problems with the marriage certificate and translation, which did not conform to U.S. Citizenship and Immigration Services guidelines. In addition, his spouse's alien file includes a marriage certificate showing that she and the applicant married on [REDACTED] 2007 in [REDACTED], Massachusetts. Moreover, the director also notes that on the applicant's previously submitted TPS applications filed in 2002, 2003, 2005, 2006, and 2007, he indicated that he was unmarried; and on his Forms 1040 income tax returns for the years 2004 and 2006, he indicated that he was unmarried.

The record also reflects that evidence of the applicant's purported marriage on [REDACTED] 1999 in El Salvador, is not found in the [REDACTED] City Hall records.

The applicant does not provide any independent documentation to establish that his claimed marriage to a TPS registrant occurred on [REDACTED] 1999 in El Salvador. The applicant's declaration explaining that he married his spouse twice, once in El Salvador and later in the United States, does not overcome the material discrepancies in his evidence. Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. It is incumbent upon the 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 lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988). The applicant has failed to submit objective evidence to explain or justify the discrepancies in documentation he has provided to establish his marriage to a TPS registrant prior to or during the initial registration period that would make him eligible for late initial registration for TPS.

The applicant is ineligible for late initial registration. Therefore, the director's decision to deny the application for this reason is affirmed.

Having found the applicant statutorily ineligible for late initial registration, no purpose would be served in discussing whether he has established the requisite continuous residence and continuous physical presence in the United States.

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*NON-PRECEDENT DECISION*

The application will be denied for the above stated reason. 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.