

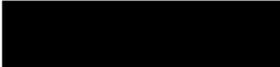


U.S. Citizenship
and Immigration
Services

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FILE: 
[WAC 05 210 83510]

OFFICE: California Service Center

DATE: MAR 05 2007

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:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.


Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, California Service Center. It is now on appeal before the Administrative Appeals Office (AAO). The appeal will be dismissed.

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 on the grounds that the record failed to establish that the applicant was continuously resident and physically present in the United States for the required periods of time, and that she is eligible for late registration.

On appeal, the applicant asserts that she was a late filer due to her inability to obtain a birth certificate from El Salvador and that her documentation is limited because of her work as a live-in maid.

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 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 phrase 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 phrase 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.

El Salvadoran nationals applying for TPS 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 El Salvadorans was from March 9, 2001, through September 9, 2002. The record reveals that the applicant filed his initial TPS application with Citizenship and Immigration Services (CIS) on April 28, 2005.

To qualify for late registration, the applicant must provide evidence that during the initial registration period she satisfied at least one of the criteria enumerated 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 CIS. See 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. See 8 C.F.R. § 244.9(b).

On May 16, 2006, the applicant was requested to submit evidence establishing her eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2), her date of entry into the United States, her nationality/identity, as well as her continuous residence in the United States since February 13, 2001 and continuous physical presence in the United States since March 9, 2001. In a response filed on June 8, 2006, the applicant, who claims to have entered the United States without inspection on August 1, 2000, submitted a photocopy of her El Salvadoran passport and explained that her late filing was due to her inability to obtain a birth certificate in El Salvador. She also stated that "I have lived in the household for which I am currently employed from the day I first entered the United States." The applicant submitted a photocopied letter from [REDACTED], dated May 26, 2006, who wrote that the applicant "has been our baby sitter since August 15, 2000 . . . She lives with us in our home since February 2002, which is [REDACTED] Lennox, California." The applicant also submitted photocopied monthly rental receipts for the time period of February 16, 2001 to January 15, 2002, which state that the applicant paid rent of \$350/month for the premises at [REDACTED] in Los Angeles.

In a Notice of Decision issued on July 12, 2006, the director determined that the evidence submitted by the applicant failed to establish that she met the continuous residence and continuous physical presence requirements for TPS applicants from El Salvador or that she is eligible for late registration.

The applicant filed a timely appeal, but did not cite any errors in the director's decision or submit any additional documentation in support of the application. The AAO notes that there are inconsistencies in the documentation of record. While the applicant stated in response to the director's notice of intent to deny that she had lived in her employer's household from the day she first entered the United States in August 2000, the rental receipts indicate that the applicant was paying rent on another address from February 2001 to January 2002. The applicant's employer also contradicts the applicant in his letter of May 26, 2002, stating that the applicant had lived with them since February 2002. In an earlier letter submitted with the petition, dated February 18, 2005, [REDACTED] stated that the applicant "has been working in my residence as a baby-sitter since August 15, 2005," but did not state that she had also lived there since then. Furthermore, the record indicates that the applicant notified the service center of a change of address to her current address in February 2006. This change of address is not reflected in the May 2006 letter of [REDACTED] which makes no mention of the applicant moving out, and is not acknowledged by the applicant in her response to the notice of intent to deny, dated May 23, 2006, in which she stated that she had lived in the [REDACTED] household since she first entered the United States.

It is incumbent upon an applicant to resolve any inconsistencies in the record by independent objective evidence. Attempts to explain or reconcile such inconsistencies will not suffice without competent evidence pointing to where the truth lies. *See Matter of Ho*, 19 I&N Dec. 582, 591-92, (BIA 1988). Moreover, doubt cast on any aspect of the applicant's evidence reflects on the reliability of the petitioner's remaining evidence. *See id.* In view of the inconsistencies in the foregoing letters and rental receipts, which are not explained by the applicant, the AAO determines that the documentation of record does not meet the evidentiary standard set forth in 8 C.F.R. § 244.9(a)(2) to demonstrate the applicant's continuous residence in the United States since February 13, 2001, or her continuous physical presence from March 9, 2001 until the filing of her petition in April 2005.

Thus, the evidence of record fails to establish that the applicant meets the continuous residence and continuous physical presence requirements for TPS applicants from El Salvador.

Nor does the record include any evidence to establish that the applicant meets any of the criteria for late registration described in 8 C.F.R. § 244.2(f)(2).

The application will be denied for the above stated reasons, with each considered as an independent and alternative basis for denial. 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.