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U.S. Department of Homeland Security

Citizenship and Immigration Services

ADMINISTRATIVE APPEALS OFFICE
CIS, AAO, 20 Mass, 3/F
425 I Street, N. W.
Washington, DC 20536



File:



Office: Texas Service Center

Date:

DEC 19 2003

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 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.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. § 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of Citizenship and Immigration Services (CIS) where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. *Id.*

Any motion must be filed with the office that originally decided your case along with a fee of \$110 as required under 8 C.F.R. § 103.7.

Robert P. Wiemann, Director
Administrative Appeals Office

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

The director denied the application because the applicant failed to establish that she is a national of a foreign state designated by the Attorney General and eligible for the granting of Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2(a), provide that an applicant is eligible for temporary protected status only if such alien establishes that he or she:

Is a national of a foreign state designated under section 244(b) of the Act;....

The applicant indicated on her application that she was a citizen of El Salvador. However, in support of her application, the applicant submitted a copy of her Certificate of Canadian Citizenship. The director concluded that the applicant had failed to establish that she was a national of a foreign state designated by the Attorney General and denied the application on January 24, 2003.

The applicant asserted on appeal that she was eligible for TPS because she is a dual citizen of Canada and El Salvador. In support of her assertion, the applicant submitted a photocopy of her Salvadoran passport. This passport indicates that the applicant's last admission into the United States as a citizen of El Salvador was at Houston, Texas, on May 31, 1999.

The applicant stated on her Application for Temporary Protected Status that she last entered the United States as a visitor on October 2, 1999, at Buffalo, New York. Since the applicant's Salvadoran passport does not reflect this entry, and since she appears to have entered the United States directly from Canada, it must be assumed that the applicant asserted her Canadian citizenship when she presented herself for inspection on October 2, 1999.

In the case of a dual national alien nonimmigrant, the nationality claimed or established by her at the time of her entry into the United States must be regarded as her sole or operative nationality for the duration of her temporary stay in the United States. *Matter of Ognibene*, 18 I&N Dec. 425 (BIA 1983).

Since it appears that the applicant claimed her Canadian citizenship at the time of her last entry into the United States, this citizenship must be regarded as her operative nationality during these proceedings. As a citizen and

national of Canada, the applicant is ineligible for the provisions of section 244 of the Act. 8 C.F.R. § 244.2(a).

An alien applying for temporary protected status 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.