



U.S. Citizenship
and Immigration
Services

M

[Redacted]

FILE:

[Redacted]

Office: CALIFORNIA SERVICE CENTER

Date:

AUG 24 2004

IN RE:

Applicant:

[Redacted]

APPLICATION:

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

ON BEHALF OF APPLICANT:

[Redacted]

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, Director
Administrative Appeals Office

*Identifying data deleted to
protect identity and privacy
of individual(s) concerned*

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DISCUSSION: The application was denied by the Director, California 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 he 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.

The record reflects that the applicant is a citizen and national of Mexico. On appeal, counsel for the applicant asserts that the applicant is eligible for TPS because he is the spouse of a citizen of El Salvador who is eligible for TPS. The applicant provided a copy of his marriage certificate and documentation regarding his wife's immigration status.

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;....

Counsel for the applicant asserts on appeal that prior to 1998 each applicant for TPS had to be from a designated country, but that the regulations were expanded to include wives and children, "in keeping with the humanitarian purpose of TPS and the principal of family unification."

However, 8 C.F.R. 244.2(f)(2)(iv), the regulation cited by counsel in support of his assertion, simply allows spouses of TPS beneficiaries to file applications after the initial registration period had closed; this regulation does not relax the requirements for eligibility for TPS. As a citizen and national of Mexico, the applicant is ineligible for the provisions of section 244 of the Act. A marriage alone, to a TPS registrant, does not render the applicant eligible for the benefit being sought; he must meet all other requirements.

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.