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U.S. Department of Homeland Security
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Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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DEC 14 2004

FILE:



Office: CALIFORNIA SERVICE CENTER Date:

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, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, California Service Center, and 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.

The director denied the application because the applicant failed to establish she was eligible for late registration.

On appeal, the applicant submits a statement and additional evidence.

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

- (a) Is a national, as defined in section 101(a)(21) of the Act, of a foreign 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 § 244.3;
- (e) Is not ineligible under § 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.

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 her initial application with Citizenship and Immigration Services (CIS) on November 17, 2003.

To qualify for late registration, the applicant must provide evidence that during the initial registration period, he or she was either in a valid immigration status, had an application pending for relief from removal, was a parolee, or was the spouse or child of an alien currently eligible to be a TPS registrant, and had filed an application for late registration within 60 days of the expiration or termination of the conditions described in 8 C.F.R. § 244.2(f)(2).

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. 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 director determined that the applicant had failed to establish she was eligible for late registration and denied the application on February 28, 2004.

On appeal, the applicant asserts that she filed a prior Form I-821, Application for Temporary Protected Status, on September 7, 2002. She submits the following evidence in support of her assertion:

1. a copy of a Form I-821 purportedly signed by the applicant, signature page missing;
2. a copy of a Form I-765, Application for Employment Authorization, purportedly signed by the applicant on September 7, 2002;
3. a copy of a Wells Fargo check dated September 7, 2002, payable to "US Immigration Service" in the amount of \$220.00; and,
4. a copy of a United States Postal Service (USPS) Form 3800, Receipt for Certified Mail, indicating mail was sent to "US Immigration Service, P.O. Box 10765, Laguna Niguel, CA 92607" on September 7, 2002.

Although the applicant claims that she filed a timely Form I-821 on or around September 7, 2002, she has not submitted sufficient evidence to corroborate her claim. The Form I-821 submitted by the applicant on appeal does not include a signature page. Neither the Form I-821 nor the Form I-765 submitted by the applicant on appeal bears a receipt stamp or fee receipt stamp reflecting receipt at the California Service Center, and the applicant has not submitted any notices from the California Service Center acknowledging receipt of a Form I-821 or a Form I-765 on or around September 7, 2002. Further, there is no indication in Citizenship and Immigration Services (CIS) computer records that the applicant filed a timely Form I-821 on or around September 7, 2002. The applicant also submits on appeal a photocopy of a Wells Fargo money order dated September 7, 2002, with a purported CIS endorsement stamp on the reverse as follows:

For Credit to U.S. Treasury
DOJ/USINS. . . .
111002 WACAAO1. . . .
WAC0303954165 WAC0303954179

A check of CIS computer records reveals that the two receipt numbers on the purported endorsement of the Wells Fargo money order do not relate to this application, but rather to two different individuals. Receipt number WAC03 039 54179 relates to a Form I-821 filed by [REDACTED]. Receipt number WAC03 039 54165 relates to a Form I-821 filed by [REDACTED]. Therefore, this purported endorsement does not establish that the applicant filed a timely Form I-821 on or around September 7, 2002. The applicant has not provided any explanation for these inconsistencies and discrepancies. 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 visa petition. Further, it is incumbent on 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. (Comm. 1988). The applicant has not established that she has met any of the criteria for late registration described in 8 C.F.R. § 244.2(f)(2). Consequently, the director's decision to deny the application for temporary protected status will be affirmed.

Beyond the decision of the director, the applicant has not provided sufficient evidence to establish continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States since March 9, 2001. Therefore, the application also may not be approved for these reasons.

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.