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**U.S. Citizenship
and Immigration
Services**

Mi

FILE:



Office: CALIFORNIA SERVICE CENTER

Date JUL 26 2004

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.

Cindy M. Gomez

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 (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, the applicant states that he is eligible for TPS because he is the spouse of a citizen of El Salvador who had been granted TPS. The applicant provides 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;....

The applicant asserts on appeal that the regulations permit the spouse of one who has been granted TPS to obtain TPS regardless of nationality. However, as noted above, both statute and regulations require that the applicant be a national of a designated foreign state as part of 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. It is noted that on the Form I-821, Application for Temporary Protected Status, and the Form I-765, Application for Employment Authorization, the applicant indicated his citizenship as "El Salvador/Mexico." The applicant, however, has presented no evidence to indicate that he is in fact a citizen of El Salvador. The birth certificate, marriage documents and other evidence indicate only Mexico as his country of birth and citizenship. Furthermore, the spousal relationship must have been in existence during the requisite initial registration period; the applicant, however, did not marry until 2002.

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.