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

*ML*

[REDACTED]

FILE:

[REDACTED]

Office: CALIFORNIA SERVICE CENTER

Date: JUN 30 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.

*for Robert P. Wiemann*  
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 Mexico 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 a national of a designated country.

On appeal, counsel states that the applicant is married to an El Salvadoran who is eligible to apply for TPS.

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 temporary protected status 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 section 244.3;
- (e) Is not ineligible under 8 C.F.R., 244.4; and
- (f)
  - (1) Registers for TPS 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 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 Citizenship and Immigration Services (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).

On December 27, 2001, the applicant was requested to provide evidence establishing she is a citizen or national of El Salvador. The applicant was also requested to provide evidence of her continuous residence since February 13, 2001, and continuous physical presence since March 9, 2001 to the date of filing the TPS application. In addition, the applicant was requested to submit a photo identity document. In response, the applicant furnished evidence in an attempt to establish her continuous residence and physical presence in the United States during the qualifying period. The applicant also furnished photo identification.

The director denied the application on August 19, 2003, after determining that the applicant was ineligible for TPS because she is a native of Mexico, and her country of nationality is not a designated foreign state for Temporary Protected Status.

On appeal, counsel states that the applicant is eligible for TPS because she is married to an El Salvadoran native who is eligible to apply for TPS, pursuant to 8 C.F.R. 244.2 (f)(2)(iv). The applicant provided a copy of her marriage license. However, the applicant is still required to meet the nationality requirements, pursuant to section 244 (c) of the Act, in order to be granted TPS as the spouse of a TPS recipient. As a national of Mexico, the applicant cannot meet these requirements. Consequently, the director's decision to deny the application for temporary protected status will be affirmed.

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.