



U.S. Citizenship
and Immigration
Services

[REDACTED]

FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date:

IN RE: Applicant: [REDACTED]

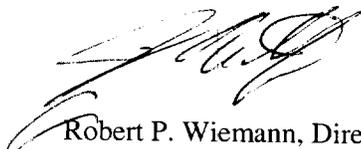
APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

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

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 applying for Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254. The director determined that the applicant is not eligible for TPS because his country of nationality, Mexico, is not a designated foreign state for TPS.

On appeal, counsel 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 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 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 burden of proof the applicant must provide supporting documentary evidence of eligibility apart from his own statements. 8 C.F.R. § 244.9(b).

The director denied the application because the applicant is not a national of a foreign state designated for Temporary Protected Status.

On appeal, counsel asserts that the applicant is eligible for TPS as the spouse of [REDACTED] a Honduran national who has been granted TPS. He states that [REDACTED] has requested that the applicant be added to her TPS application as a dependent. He contends that the applicant should be granted derivative TPS for purposes of family unity. Counsel submits the following relevant documents:

1. a copy of a California License and Certificate of Confidential Marriage showing that the applicant and [REDACTED] a Honduran citizen, were married in Pacoima, California, on October 3, 1998;
2. a Form I-797A approval notice indicating that [REDACTED] has been granted TPS;
3. a Form I-797D notice enclosed with the applicant's Employment Authorization Document (EAD);
5. a letter dated May 30, 2003, from [REDACTED] requesting that her husband, Jose Isidro Castro, be added to her Form I-821 as a derivative TPS registrant; and,
6. a letter dated May 30, 2003, from [REDACTED] explaining that she has lived with the applicant since October 1996; married him on October 3, 1998; obtained a divorce from him on November 22, 2001; and was remarried to him on May 24, 2003.

In order to be eligible for Temporary Protected Status, an alien must be a national of a foreign state designated under section 244(b) of the Act. 8 C.F.R. § 244.2(a). In this case, the applicant is a native and citizen of Mexico. Mexico is not a foreign state designated for Temporary Protected Status. Since the applicant is not a national of a foreign state currently designated for Temporary Protected Status, he is statutorily ineligible for TPS, and the application must be denied. 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.