



U.S. Citizenship
and Immigration
Services

10/1



FILE:



Office: CALIFORNIA SERVICE CENTER

Date:

OCT 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.

A handwritten signature in black ink, appearing to read "R. Wiemann".

Robert P. Wiemann, Director
Administrative Appeals Office

identifying data deleted to
prevent unwarranted
invasion of personal privacy

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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.

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 January 2, 2004.

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 March 9, 2004.

On appeal, the applicant claims that she qualifies for late initial registration because she is the spouse of a Salvadoran national who has been granted TPS.

The record contains a photocopy of a purported Salvadoran "marriage record" indicating that [REDACTED] a national of El Salvador, and [REDACTED] a national of Santo Domingo and citizen of El Salvador, were married on November 13, 2000 in El Triunfo, Usulután, El Salvador, along with an English translation, and an unsigned "fill-in-the-blank" letter purportedly from [REDACTED] stating that he wishes to include the name of his wife [REDACTED] as a dependent with his TPS application. These documents are not sufficient to establish the applicant's eligibility for late initial registration. The applicant has not submitted any independent evidence to corroborate her claim that [REDACTED] in fact, her husband, or that Mr. [REDACTED] is an alien who is currently eligible to be a TPS applicant. It is noted that the record contains several pay statements relating to the applicant's employment for Stiletto International, Inc., in Laguna Hills, California, for the period from October 5, 2003 to February 29, 2004. These documents identify the applicant's marriage status as "Single." The applicant has not provided any explanation for this discrepancy.

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). It is concluded that the applicant has not provided sufficient, credible evidence to establish that she qualifies for late initial registration as the spouse of an alien who is currently eligible to be a TPS registrant. The applicant has not provided any evidence to establish that she has met any of the other 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 identity and nationality. The applicant also 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. It is noted that the applicant indicates on the Form I-821, Application for Temporary Protected Status, that she entered the United States on September 16, 2001; however, she submits various documents in support of her claim of continuous residence in the physical presence indicating that she was living in the United States and attending Orange High School in Orange, California, as early as January 2001. The applicant has not provided any explanation for this discrepancy in her claimed dates of residence and physical presence in the United States. 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.