

...clearly ...  
invasion of personal privacy

U.S. Department of Homeland Security  
20 Mass. Rm. A3042, 425 I Street, N.W.  
Washington, DC 20536



U.S. Citizenship  
and Immigration  
Services

1731

[Redacted]

FILE:

[Redacted]

Office: CALIFORNIA SERVICE CENTER

Date: SEP 20

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 (AAO) on appeal. The appeal will be dismissed.

The director denied the application because the applicant failed to establish that she 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.

On appeal, counsel asserts that the applicant is eligible for TPS as the spouse of an alien who is currently eligible to be a TPS registrant. Counsel states that the applicant is the spouse of [REDACTED] a Salvadoran lawful permanent resident who applied for TPS simultaneously with the applicant. Counsel asserts that the director erroneously denied [REDACTED] application for TPS on November 20, 2003, because he is a lawful permanent resident in the United States. Counsel states: "No provision in Section 244 precludes permanent residents from receiving TPS." Counsel asserts that the applicant is eligible for TPS as the spouse of a Salvadoran citizen who is currently eligible to be a TPS registrant.

The applicant is a native and citizen of Guatemala. The record indicates that she filed a Form I-589, Request for Asylum in the United States, on October 25, 1993. Her application was denied on November 22, 1994. An Immigration Judge subsequently ordered the applicant deported to Guatemala in absentia on February 15, 1996.

The record contains an outstanding Warrant of Deportation issued by the District Director, San Francisco, on February 15, 1996.

The applicant previously submitted the following documents in an attempt to establish her eligibility for TPS as the spouse of an alien currently eligible to be a TPS registrant:

1. a Form I-551, Alien Registration Receipt Card, indicating that [REDACTED] is a lawful permanent resident of the United States;
2. a photocopy of the biographic page of the Salvadoran passport belonging to [REDACTED]
3. a California License and Certificate of Marriage indicating that [REDACTED] a citizen of Guatemala, and [REDACTED] a citizen of El Salvador, were married in Turlock, California, on March 23, 1997; and,
4. a State of California Certificate of Live Birth indicating that [REDACTED] was born to [REDACTED], a citizen of El Salvador, [REDACTED] a citizen of Guatemala, in Modesto, California, on June 8, 1999.

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 fact that the applicant is the spouse of a Salvadoran citizen who is eligible for TPS may render her eligible for late registration under 8 C.F.R. § 244.2(f)(2)(iv); however, it does not necessarily does not make her eligible for TPS. An applicant for TPS must meet all the requirements set forth at 8 C.F.R. 244.2,

including the requirement that the applicant must be a national of a foreign state designated under section 244(b) of the Act. As a citizen and national of Guatemala, the applicant is statutorily ineligible for the provisions of section 244 of the Act. Consequently, the director's decision to deny the application for TPS 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.