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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

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[Redacted]

FILE: [Redacted] OFFICE: CALIFORNIA SERVICE CENTER DATE: 03 02 2005
[WAC 04 133 51934]

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 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's country of nationality is not a designated foreign state for Temporary Protected Status.

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 alien 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 § 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.

The record shows that the applicant filed his TPS application on April 6, 2004. To support his claim of eligibility for late initial registration, the applicant submitted with his application: (1) his birth certificate indicating that he was born in Mexico on June 8, 1998, to a Mexican mother and a Mexican father; (2) his mother's marriage certificate indicating that she married [REDACTED] a native and citizen of El Salvador, on December 24, 2003; and (3) a copy of Mr. [REDACTED] Form I-589, Application for Asylum and for Withholding of Deportation, as evidence that Mr. [REDACTED] was eligible to be a TPS registrant.

The director noted that the applicant is a national of Mexico, and that his country of nationality is not a designated foreign state for Temporary Protected Status. Therefore, the director denied the application on July 23, 2004.

On appeal, counsel asserts that the applicant is eligible for TPS because he is the step-child of Mr. [REDACTED] who is an approved TPS applicant. She submits a copy of Form I-797, Notice of Action, as evidence that Mr. [REDACTED] was granted TPS on July 19, 2004. Counsel further asserts that, "we have already been successful in obtaining TPS status for those who are not of Salvadoran nationality, but are the spouses and/or children of TPS applicant's. This has been recognized by the Service [USCIS] and before the EOIR." Counsel, however, failed to submit any evidence suggesting that the applicant received status as an El Salvadoran citizen as a result of his mother's marriage. Simply going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972). The Service is not required to approve applications or petitions where eligibility has not been demonstrated. *See Matter of M-*, 4 I&N Dec. 532 (A.G. 1952; BIA 1952). Furthermore, even if the applicant did receive Salvadoran citizenship, the applicant's mother did not marry until December 24, 2003; therefore, the applicant would not have been a Salvadoran citizen during the requisite time periods.

In this case, the applicant has not demonstrated that he is statutorily eligible for TPS. The applicant is required to meet the requirements that he is a national of a designated foreign state, pursuant to section 244(c) of the Act, in order to be granted TPS as the child, or step-child, of a TPS recipient. As a national of Mexico, the applicant cannot meet these requirements. Therefore, this finding of the director 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.