



U.S. Citizenship  
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FILE: [REDACTED]  
[LIN 03 238 51436]

Office: NEBRASKA SERVICE CENTER

Date: AUG 03 2005

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: 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.

Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, Nebraska 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. The director also denied the application because the applicant failed to submit an official photo identification document to establish her identity and nationality.

On appeal, the applicant 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 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 August 5, 2003.

To qualify for late registration, the applicant must provide evidence that during the initial registration period, 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 she 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 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 her burden of proof the applicant must provide supporting documentary evidence of eligibility apart from her own statements. 8 C.F.R. § 244.9(b).

The first issue in this proceeding is whether the applicant has provided sufficient evidence to establish her identity and nationality.

Each application must be accompanied by evidence of the applicant's identity and nationality. Acceptable evidence in descending order of preference may consist of the alien's passport, a birth certificate accompanied by photo identification, and/or any national identity document from the alien's country of origin bearing photo and/or fingerprint. 8 C.F.R. § 244.9(a)(1).

On November 24, 2003, the applicant was requested to submit evidence establishing her eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2). The applicant was also requested to submit an official photo identification document to establish her identity. The applicant, in response, provided a photocopy of her Salvadoran birth certificate with English translation; a photocopy of her Employment Authorization Card valid from April 17, 2001 to April 16, 2002; a photocopy of her Salvadoran national identity document (cedula) bearing her photograph and thumbprints; and, a photocopy of her Nebraska Identification Card issued on April 24, 2001. She also submitted additional documentation relating to her residence and physical presence in the United States.

The director determined that the applicant had failed to submit an official photo identification document to establish her identity and nationality and denied the application on February 12, 2004.

On appeal, the applicant submits photocopies of the documentation previously submitted in response to the Notice of Intent to Deny. She also submits a photocopy of her Salvadoran voter's registration card (Carnet Electoral); and, a photocopy of the applicant's Employment Authorization Card valid from November 25, 2003 to February 25, 2004.

In view of the foregoing, it is concluded that the applicant has submitted sufficient evidence to establish her identity and nationality, and this ground for denial of the application has been overcome.

The second issue in this proceeding is whether the applicant has established her eligibility for late registration.

As previously stated, the applicant was requested on November 24, 2003, to submit evidence to establish her eligibility for late registration. The applicant, in response, submitted evidence of identity and nationality and documentation relating to her residence and physical presence in the United States.

The director determined that the applicant had not submitted sufficient evidence to establish her eligibility for late registration and denied the application.

On appeal, the applicant provides additional evidence to establish her identity and nationality and evidence relating to her qualifying continuous residence and continuous physical presence in the United States. However, she failed to submit any evidence to establish that she has met any of the 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 on this basis will be affirmed.

It is noted that the applicant filed a Form I-589, Application for Asylum and for Withholding of Removal, with the Immigration and Naturalization Service (now CIS) on May 10, 2000. Her application was rejected by the Asylum Office in Chicago, Illinois, on May 9, 2001, because the applicant failed to establish that she filed her asylum application within one year of her arrival in the United States on December 26, 1998, and no extraordinary circumstances were found in her case that would have caused a failure to file her asylum application during the required period. The applicant was referred for a removal hearing before an Immigration Judge.

On September 17, 2002, an Immigration Judge in Chicago, Illinois, ordered the applicant removed to El Salvador in absentia. On October 23, 2002, the District Director, Omaha, Nebraska, issued a Form I-205, Warrant of Removal/Deportation. To date, the warrant remains outstanding.

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.