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

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FILE:



[SRC 03 046 55873]

Office: TEXAS SERVICE CENTER

Date: JUN 22 2005

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.

Cindy M. Gomez for

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Texas Service Center, and is now before the Administrative Appeals Office (AAO) 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 submit all requested additional evidence to establish her eligibility for TPS pursuant to 8 C.F.R. § 103.2(a)(14).

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 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.

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 the Immigration and Naturalization Service, now Citizenship and Immigration Services (CIS), on November 26, 2002.

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).

Pursuant to 8 C.F.R. 103.2(a)(11), all evidence submitted in response to a CIS request must be submitted at one time. The submission of only some of the requested evidence will be considered a request for a decision based on the record.

Pursuant to 8 C.F.R. § 103.2(a)(14), where an applicant does not submit all requested additional evidence and requests a decision based on the evidence already submitted, a decision shall be based on the evidence already submitted. Failure to submit requested evidence which precludes a material line of inquiry shall be grounds for denying the application.

On June 30, 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 photo identification and evidence of nationality; evidence establishing her continuous residence in the United States since February 13, 2001, and her continuous physical presence in the United States since March 9, 2001; and, certified copies of the final court dispositions for all arrests since her arrival in the United States. The applicant, in response, provided evidence of identity and nationality, evidence in an attempt to establish her continuous residence and continuous physical presence in the United States during the requisite time frames, and a Texas marriage certificate indicating that she and [REDACTED] were married in Deaf Smith County, Texas, on August 24, 2001; however, the applicant did not provide any evidence to establish that [REDACTED] was an alien who was currently eligible to be a TPS registrant during the initial registration period.

The director noted that, although the applicant had provided proof of identity and nationality and evidence to establish her qualifying continuous residence and continuous physical presence in the United States during the requisite time frames, she failed to provide sufficient evidence to establish her eligibility for late registration as set forth at 8 C.F.R. § 244.2(f)(2). The director, therefore, determined that the applicant had failed to establish her eligibility for TPS pursuant to 8 C.F.R. § 103.2(a)(14).

On appeal, the applicant claims that she filed her initial application "before March 9, 2001." However, she has not provided any independent evidence to corroborate her claim. CIS computer records contain no indication that the applicant filed a prior Form I-821, Application for Temporary Protected Status, on or around March 9, 2001.

The applicant submits photocopies of the evidence previously submitted in response to the Notice of Intent to Deny. She also submits a photocopy of an Employment Authorization Card valid from January 3, 2002 to September 9, 2002, indicating that her husband [REDACTED] was currently a TPS applicant.

The applicant has submitted evidence to establish that she was married to [REDACTED] during the initial registration period. CIS computer records indicate that [REDACTED] filed a timely application for TPS on December 3, 2001; however, [REDACTED] TPS application was denied on January 13, 2005. Since it has been determined that [REDACTED] failed to establish his eligibility for TPS, it cannot be concluded that he was an alien who was eligible to be a TPS registrant during the initial registration period. The applicant has not submitted sufficient evidence to establish that she qualifies for late registration as the spouse of an alien who was currently eligible to be a TPS registrant during the initial registration period. The applicant has not submitted 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.

It is noted for the record that the applicant was apprehended on December 16, 1999, by the United States Border Patrol near Eagle Pass, Texas. She was issued a Notice to Appear before an Immigration Judge in San Antonio, Texas, for a removal proceeding at a date to be determined, and released on her own recognizance. The applicant was ordered to report her address and telephone number to the Immigration and Naturalization Service (the Service), now CIS. She failed to report her address and telephone number to the Service as required. Therefore, the Immigration Judge ordered the applicant removed from the United States in absentia on September 7, 2001. On November 5, 2001, the District Director, San Antonio, Texas, issued a Form I-205, Warrant of Removal/Deportation, that is still 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. Here, the applicant has failed to meet this burden.

ORDER: The appeal is dismissed.