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U.S. Citizenship  
and Immigration  
Services

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FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: MAY 25 2005  
[WAC 02 136 51586]

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 for*

Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The applicant's Temporary Protected Status was withdrawn by the Director, California Service Center, and is now before the Administrative Appeals Office on appeal.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 failed to establish he was a national of a designated country.

On appeal, the applicant states an error was made in denying his TPS application. The applicant also requests an additional 90 days in which to submit a brief and/or evidence. To date, no additional information or evidence has been submitted. Therefore, the record must be considered complete.

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.

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 record reveals that on May 18, 2002, the director approved the application for Temporary Protected Status. On August 27, 2002, in an intent to withdraw notice, the applicant was informed that because he is a native of Mexico he is ineligible for TPS and his application had been erroneously approved. The applicant did not respond to the notice. The director, therefore, withdrew the applicant's TPS on May 9, 2003.

On appeal, the applicant claims that his application was erroneously denied. The record indicates that the applicant is the spouse of a native and citizen of El Salvador who is currently eligible to be a TPS registrant. Pursuant to 8 C.F.R. § 244.2, a spouse or child of an alien currently eligible to be a TPS registrant is eligible for TPS only if such alien establishes that he or she also is a national of a foreign state as designated by the Attorney General (now the Secretary of the Department of Homeland Security).

The applicant, in this case, is a native and citizen of Mexico and his country has never been designated for TPS under section 244 of the Act. Therefore he does not meet the eligibility requirements of being a national of a state designated under section 244(b) of the Act. Accordingly, the director's decision to withdraw the approval of the TPS application will be affirmed.

Beyond the director's decision, it should also be noted that on July 19, 2002, the Immigration Judge in Los Angeles, California, administratively closed the applicant's removal proceedings allowing the applicant to apply for TPS as a "dependent." However, as discussed above, the applicant is a native of Mexico and is therefore ineligible for TPS benefits.

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.