



U.S. Citizenship
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Services

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FILE: [REDACTED]
[EAC 04 132 51280]

Office: VERMONT SERVICE CENTER

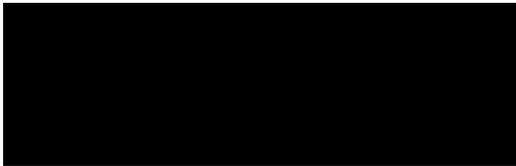
Date: NOV 16 2005

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:



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, Vermont 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.

On appeal, counsel for the applicant submits a statement.

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 TPS only if such alien establishes that he or she:

- (a) Is a national of a 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 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 Form I-821, Application for Temporary Protected Status, with Citizenship and Immigration Services (CIS) on March 26, 2004.

To qualify for late registration, the applicant must provide evidence that during the initial registration period she fell within at least one of the provisions described in 8 C.F.R. § 244.2(f)(2) above.

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).

On May 3, 2004, 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 evidence establishing her qualifying continuous residence and continuous physical presence in the United States during the requisite periods.

The director determined that the applicant had failed to establish she was eligible for late registration and denied the application on August 16, 2004.

On appeal, counsel for the applicant asserts that the director erred in denying the applicant's TPS application because she "had an asylum application in the past with your office."

The record reflects that the applicant's father, [REDACTED] CIS registration number [REDACTED] filed a Form I-589, Request for Asylum in the United States, on November 18, 1993. The applicant was added to his asylum application as a dependent on March 6, 1995. The applicant was subsequently interviewed in connection with the asylum application on October 3, 2001. At that time, she withdrew her request for asylum. Accordingly, the applicant's request for political asylum was administratively closed on November 13, 2001, because the applicant withdrew her application.

In order to qualify for late initial registration, the applicant was required to file her Form I-821, Application for Temporary Protected Status, within 60 days of the termination of her asylum application. In this case, the applicant did not file her Form I-821 until March 26, 2004. Therefore, she cannot qualify for late initial registration on this basis.

The record further reflects that the applicant's mother, [REDACTED] a lawful permanent resident of the United States under CIS registration number [REDACTED] filed a Form I-130, Petition for Alien Relative, on the applicant's behalf on November 7, 1997. The director denied that application on July 28, 1998, after determining that the applicant's mother had abandoned the application by failing to respond to a request for evidence. The applicant does not qualify for late registration on the basis of the Form I-130. It was denied prior to the initial registration period for Salvadorans. Furthermore, an I-130 relative petition is not an application for change or adjustment of status, and an alien cannot qualify for late initial registration on the basis of a pending Form I-130 petition.

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 TPS will be affirmed.

An alien applying for TPS 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.