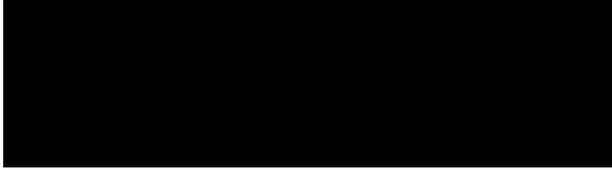


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U.S. Citizenship
and Immigration
Services



MM

FILE: [REDACTED] OFFICE: CALIFORNIA SERVICE CENTER DATE: NOV 28 2006
[WAC 04 187 51446]

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, California 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 Guatemala 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 had “failed to register in a timely manner.”

On appeal, the applicant asserts that she has met all the requirements for TPS, and that at no time did she lie or fail to meet the requirements. She further asserts that she does not remember when she sent her application, but she was in the United States during the period required to register and, furthermore, she registered as a national of Guatemala, not of El Salvador. She requests that she be granted TPS as a Guatemalan because she has lived here since 1998, and denial of her TPS would cause great hardship to herself, to her husband, and to her child. She submits 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 initial registration period for El Salvadorans was from March 9, 2001, through September 9, 2002. The record shows that the applicant filed her TPS application on June 16, 2004.

The director determined that the applicant had failed to establish that she was eligible for late registration and denied the application on September 28, 2004.

The AAO notes its authority to affirm decisions that, though based on incorrect grounds, are deemed to be correct decisions on other grounds within its power to formulate. *Helvering v. Gowran*, 302 U.S. 238 (1937); *Securities Comm'n v. Chenery Corp.*, 318 U.S. 86 (1943); and *Chae-Sik Lee v. Kennedy*, 294 F.2d 231 (D.C. Cir. 1961), *cert. denied*, 368 U.S. 926.

The record shows that the applicant indicated on the Form I-821 that her country of citizenship and her country of residence are that of Guatemala. The applicant also submits a copy of her birth certificate reflecting that she was born in Guatemala on April 28, 1971. Additionally, the applicant, on appeal, asserts that she is a national of Guatemala. The applicant is required to meet the eligibility requirements that she is a national of a designated foreign state pursuant to section 244(c) of the Act. The country of Guatemala is not a foreign state designated under section 244 of the Act. Therefore, the applicant is statutorily ineligible for TPS. Accordingly, the director's decision to deny the application 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.