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**U.S. Citizenship
and Immigration
Services**

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FILE:

[WAC 05 225 84230]

OFFICE: CALIFORNIA SERVICE CENTER DATE: DEC 06 2006

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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied 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 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 initial registration.

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 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 initial TPS application with Citizenship and Immigration Services (CIS) on May 13, 2005.

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 February 5 2006, the applicant was also requested to submit evidence establishing her eligibility for late initial registration as set forth at 8 C.F.R. § 244.2(f)(2). The applicant was also requested to submit additional evidence to establish her qualifying continuous residence and continuous physical presence in the United States during the requisite periods. The applicant, in response, provided a photocopy of a CIS notice acknowledging the filing of a Form I-485, Application to Adjust to Permanent Resident Status, filed by the applicant on May 22, 1996, under receipt number WAC 04 120 51531. The applicant filed this application seeking adjustment of status to lawful permanent resident as the dependent of a principal alien applicant for adjustment of status.

The director determined that the applicant had failed to establish she was eligible for late registration and denied the application on May 2, 2006.

On appeal, the applicant states that she is eligible for TPS because she had an application for change of status pending, and also because she is the daughter of an alien who has been granted TPS. She submits the following:

1. a photocopy of an Employment Authorization valid from March 24, 2006 to September 9, 2006, indicating that [REDACTED] has been granted TPS under CIS registration number [REDACTED]
2. a photocopy of a CIS notice dated May 17, 2005, informing [REDACTED] that he has been granted TPS, valid from March 9, 2005 to September 9, 2006; and,

3. a photocopy of a Salvadoran birth certificate with English translation indicating that [REDACTED] was born to [REDACTED] on May 2, 1983.

In order to qualify for late initial registration based on a pending application for adjustment of status to lawful permanent resident, the applicant was required to file her TPS application within 60 days of the date that application terminated. In this case, the applicant's adjustment application was denied on September 24, 2004. The applicant did not file her TPS application until May 13, 2005. Therefore, she cannot qualify for late initial registration on this basis.

CIS regulations may allow the child of an alien currently eligible to be a TPS registrant to file an application after the initial registration period; however, section 101(b)(1) of the Act defines the term "child" as an "unmarried person under twenty-one years of age." The applicant turned 21 years old on May 2, 2004. In order to qualify for late initial registration as the child of an alien who has been granted TPS, the applicant was required to file her TPS application within 60 days of her twenty-first birthday. As previously stated, the applicant did not file her TPS application until May 13, 2005. Therefore, she cannot qualify for late initial registration on this basis.

The applicant has not submitted 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 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.