

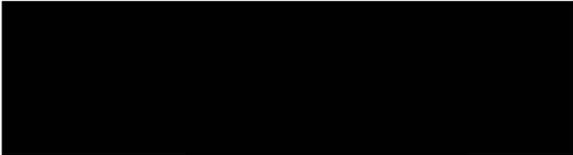
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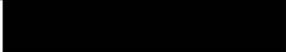
U.S. Citizenship
and Immigration
Services

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FILE:



Office: CALIFORNIA SERVICE CENTER

Date:

[WAC 05 214 76424]

DEC 18 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:



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, 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 claims to be a 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 record reveals that the applicant filed a TPS application during the initial registration period under Citizenship and Immigration Services (CIS) receipt number SRC 02 261 54173. The Director, Texas Service Center, denied that application on March 17, 2003, due to abandonment, because the applicant failed to respond to the director's request for evidence regarding her identity and nationality and her continuous residence and continuous physical presence during the requisite periods.

Counsel for the applicant filed a motion to reopen on June 11, 2003. The Director, Texas Service Center, denied the motion on June 15, 2004, affirming the initial decision to deny based upon abandonment.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on May 2, 2005, and indicated that she was re-registering for TPS.

The director denied the re-registration application because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS.

On appeal, counsel states that the director's decision was in error because the computer-generated status report indicated that the applicant's initial TPS application was suspended until such time as she submitted the fingerprinting processing fee; that the denial date of March 17, 2003, was in error, and that CIS had also erred by issuing Form I-797 a denial notice on September 19, 2005, that stated that the applicant was an asylum applicant. Counsel also states that the Notice of Action dated September 5, 2002, shows that the applicant paid the fingerprinting processing fee. The applicant submits a copy of the CIS computer-generated report dated October 7, 2005, and a copy of the Notice of Action dated September 5, 2002.

Contrary to counsel's assertion, the director's decisions dated March 17, 2003 and June 15, 2004, are not based upon the receipt or non-receipt of fingerprinting processing fees. The decisions were based upon the applicant's failure to respond to the director's request for evidence pertaining to her identity and her nationality, continuous residence and continuous physical presence in the United States during the requisite time periods.

In addition, counsel states that a receipt for a passport application and an employment letter is prima facie evidence that the applicant is eligible for TPS. This is not the case. The applicant has not submitted sufficient evidence to overcome the initial findings of the director.

It is noted that a Form I-797 was issued indicating that the applicant was an asylum applicant. This was issued in error. However, a denial letter, also dated September 19, 2005, was also sent to the applicant. This indicated to the applicant that her TPS application was being denied.

If the applicant is filing a re-registration application, a previous grant of TPS must have been afforded the applicant, as only those individuals who are granted TPS must register annually. In addition, the applicant must continue to maintain the conditions of eligibility. 8 C.F.R. § 244.17.

In this case, the applicant has not previously been granted TPS. Therefore, she is not eligible to re-register for TPS. Consequently, the director's decision to deny the application will be affirmed.

It is noted that the director's decision does not explore the possibility that the applicant was attempting to file a late initial application for TPS instead of an annual re-registration.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an applicant may apply for TPS during the initial registration period, or:

- (f) (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 initial registration period for El Salvadorans was from March 9, 2001 to September 9, 2002. The record reveals that the applicant filed the current application with Citizenship and Immigration Services (CIS) on May 2, 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 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 applicant has failed to provide any evidence to establish that this application should be accepted as a late initial registration under 8 C.F.R. § 244.2(f)(2). Therefore, the application also must be denied for this reason.

The application will be denied for the above stated reasons, with each considered as an independent and alternative basis for denial. 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.