

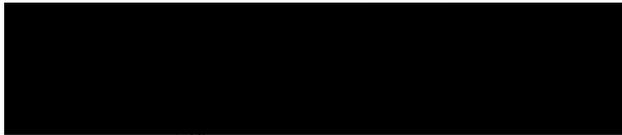
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**U.S. Citizenship  
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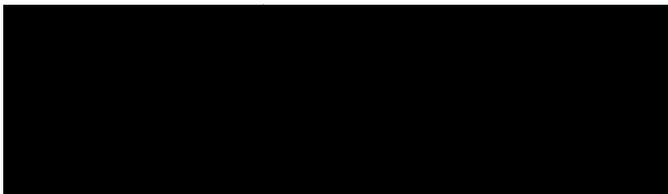
OFFICE: VERMONT SERVICE CENTER

DATE: **JAN 06 2006**

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:



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 initial registration.

On appeal, counsel for the applicant submits a brief 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 November 12, 2002.

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 August 17, 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 record does not contain a response from the applicant.

The director determined that the applicant had failed to establish she was eligible for late registration and denied the application on October 8, 2004.

On appeal, counsel asserts that the applicant qualifies for late initial registration because she had an asylum application pending before CIS during the initial registration period for Salvadorans. Counsel further asserts that the applicant also qualifies for late initial registration because she is the unmarried daughter of a Salvadoran citizen who is "eligible to be a TPS registrant." Counsel submits the following:

1. photocopies of the applicant's Employment Authorization Cards valid from September 14, 1999 through September 13, 2002, based on the applicant's pending asylum application; and,
2. a photocopy of the biographic page from the Salvadoran passport issued [REDACTED] the applicant's mother, and a separate passport page indicating that the applicant's mother had been granted lawful permanent residence on June 6, 2002, under CIS registration number [REDACTED]

The record reflects that the applicant's mother, [REDACTED] a Form I-589, Application For Asylum and For Withholding of Removal, on May 19, 1995, as an American Baptist Church v. Thornburgh Settlement Agreement (ABC) class member. The applicant was included in her mother's

application. On June 6, 2002, the applicant's asylum application was administratively terminated at the applicant's request.

In order to qualify for late initial registration based on her pending asylum application, 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. The applicant did not file her Form I-821 until November 12, 2002, four months after the termination of the applicant's asylum application. Therefore, she does not qualify for late initial registration on this basis.

Counsel's assertion that the applicant also qualifies for late initial registration because her mother is "eligible to be a TPS registrant" is not correct. In order to qualify for late initial registration as the unmarried child of a TPS registrant, the applicant's parent must have been granted TPS. There is no indication in the record that the applicant's mother ever applied for TPS. Rather, the record indicates that the applicant's mother was granted suspension of removal under the Nicaraguan and Central American Relief Act (NACARA), and has subsequently been granted lawful permanent residence. Therefore, the applicant is not eligible for late initial registration on this basis.

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.