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JUN 28 2006

FILE:



OFFICE: CALIFORNIA SERVICE CENTER

DATE:

[WAC 05 140 80182]

IN RE:

Applicant:



APPLICATION:

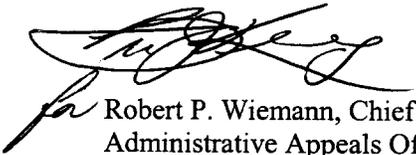
Application for Temporary Protected Status under Section 244 of the
Immigration and Nationality Act, 8 U.S.C. § 1254

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.



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 record reveals that the applicant filed a TPS application during the initial registration period under Citizenship and Immigration Services (CIS) receipt number WAC 01 223 55549. The director denied that application based on abandonment on April 20, 2004, because the applicant had failed to respond to a request dated November 21, 2003, to submit: (1) evidence to establish her nationality; and (2) police clearances from every city where she had lived since arriving in the United States, and the final court disposition of any arrests in the United States, including her arrest on March 22, 1999, in Los Angeles, California, for theft of personal property. The applicant did not file a motion to reopen within 30 days from the date of the denial.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on February 17, 2005, and indicated that she was re-registering for TPS.

The director denied the re-registration application on May 18, 2005, 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, the applicant asserts that she never received any request from CIS for additional evidence. A review of the record of proceeding, however, shows that the request for additional evidence dated November 21, 2003, and the director's notice of decision to deny dated April 20, 2004, were both mailed to the applicant's most recent address at that time [REDACTED]. There is no evidence in the record that the applicant had advised CIS of a change of her address. It is noted that on September 20, 2004, after the request for evidence and the director's denial decision were mailed to the applicant, the Form AR-11, Alien's Change of Address Card, was received at the Service Center.

If the applicant is filing an application as a re-registration, 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, through September 9, 2002. The record reveals that the applicant filed the current application with CIS on February 17, 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). However, the provisions of TPS do not allow approval of any application filed by an individual convicted of a felony or two or more misdemeanors. Section 244(c)(2)(B)(i) of the Act and 8 C.F.R. § 244.4(a). The Federal Bureau of Investigation fingerprint results report indicates that on March 22, 1999, in Los Angeles, California, the applicant (name used: [REDACTED]) was arrested for "THEFT OF PERS PROP 602 WIC." The final court disposition of this arrest is not contained in the record of proceeding although the applicant was requested on November 21, 2003, to submit the final disposition of this arrest and any other arrests.

It is noted that the record of proceeding contains a Warrant of Removal/Deportation, Form I-205, issued in San Antonio, Texas, on July 26, 1999, based on the final order of removal by an immigration judge.

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.