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U.S. Citizenship
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Services

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FILE:



Office: CALIFORNIA SERVICE CENTER

Date: MAR 01 2006

[WAC 05 204 70556]

IN RE:

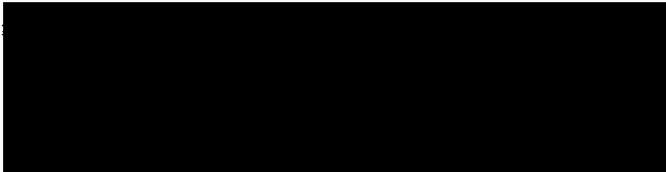
Applicant:



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 N. Gomez
ad for

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 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 an initial Form I-821, Application for Temporary Protected Status, under CIS receipt number LIN 01 153 50681 on March 30, 2001. The Director, Nebraska Service Center, denied the application on June 28, 2001 because the applicant did not provide a photo identity document, and she failed to submit sufficient evidence to establish that she had continuously resided in the United States since February 13, 2001 and that she had been continuously physically present in the United States since March 9, 2001. The applicant submitted an appeal on September 12, 2001 that was rejected as untimely filed by the director on January 11, 2002.

The applicant submitted a second TPS application under CIS receipt number LIN 02 170 50669 on April 22, 2002. The Director, Nebraska Service Center, denied the application for abandonment on December 3, 2002, because the applicant failed to respond to an August 1, 2002 request to provide evidence of her continuous residence and continuous physical during the requisite periods. Since the application was denied due to abandonment there was no appeal available. However, the applicant filed a request for a motion to reopen within 30 days that was denied by the director on February 21, 2003 because it did not meet the requirements of a motion.

The applicant filed a third TPS application under CIS receipt number LIN 03 147 51273 on March 31, 2003. The director denied this application on May 28, 2003, because it was filed outside of the initial registration period and because the applicant had failed to establish her eligibility for filing under the provisions of late initial registration. In addition, the director determined that the applicant had failed to establish her continuous residence in the United States since February 13, 2001, and her continuous physical presence in the United States from March 9, 2001, to the filing date of the application. The applicant filed a timely appeal on June 23, 2003. The AAO affirmed the director's decision and dismissed the applicant's appeal on May 25, 2005.

The applicant filed the current re-registration application under CIS receipt number WAC 05 204 70556 on April 22, 2005. The Director, California Service Center, denied the application because the applicant's initial TPS application(s) had been denied and the applicant was not eligible to apply for re-registration for TPS.

On appeal, the applicant states that she would send a brief and/or evidence within 30 days. To date, there has been no further correspondence from the applicant or counsel. Therefore, the record must be considered complete.

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 Citizenship and Immigration Services (CIS) on April 22, 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.