



U.S. Citizenship
and Immigration
Services

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FILE:

Office: California Service Center

Date: **NOV 21 2006**

[WAC 05 225 72557]

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.


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 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 a late initial TPS application on May 13, 2005, under CIS receipt number WAC 05 225 72557. The director denied the application on May 2, 2006, because the applicant failed to establish that she was eligible for late initial registration for TPS.

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 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 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).

On appeal, the applicant states only that her TPS application was erroneously denied because she had an asylum application and other relief pending or subject to review under another A number: [REDACTED]. With her appeal, in an attempt to establish eligibility for TPS, the applicant submits a photo copy of: 1) her EAD card issued in 1995; 2) an identification card issued by [REDACTED] showing an employment date of May 22, 1995; 3) an Arkansas birth certificate for her daughter, born on December 29, 1999; and 4) 18 cash receipts from Washington Regional Medical Center issued during 2000, 2001, and 2002. However, this does not mitigate the applicant's failure to file her Form I-821, Application for Temporary Protected Status, within the initial registration period.

Furthermore, the record reflects that the applicant's asylum application, under [REDACTED], was under appeal before the Immigration Court, in 1996. The Immigration Court rendered a final decision, denying the asylum application, and issued a voluntary departure order on March 12, 1996 with an alternate order of deportation. The record does not reflect an appeal of the Immigration Court's decision. Therefore, there is no basis in the record to support the applicant's assertion that she has a pending asylum application to justify her late initial TPS application. The TPS application was filed on May 13, 2005, over 60 days after the Immigration Judge issued a final order of voluntary departure.

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). As noted above, the record reveals that the applicant's asylum application was finalized by the Immigration Judge over 9 years before the applicant filed her TPS application. Consequently, the director's decision to deny the application for TPS will be affirmed.

It is noted that as discussed above, there is an outstanding order of deportation against the applicant, issued by an Immigration Judge on March 12, 1996, under [REDACTED]

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.