

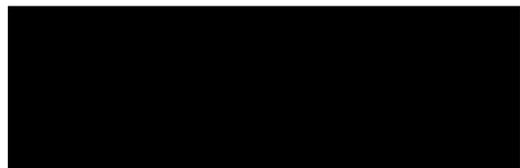
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**U.S. Citizenship
and Immigration
Services**



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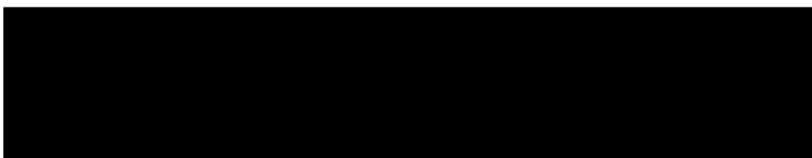
FILE: [Redacted] Office: VERMONT SERVICE CENTER
[EAC 03 247 51701 - I-821]
[EAC 06 102 51131 - Appeal]

Date: NOV 27 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.

A handwritten signature in black ink, appearing to read "R. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied, reopened, and denied again by the Director, Vermont Service Center (VSC), and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The claims to be 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 that she was eligible for late registration.

On appeal, counsel for the applicant submits a brief and additional documentation.

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 designated foreign state is eligible for Temporary Protected Status only if such alien establishes that he or she:

- (a) Is a national, as defined in section 101(a)(21) of the Act, of a foreign 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 TPS 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 Form I-821, Application for Temporary Protected Status, with Citizenship and Immigration Services (CIS) on August 30, 2003, more than two years and one month after the initial registration period had ended.

To qualify for late registration, the applicant must provide evidence that during the initial registration period he or 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 September 17, 2003, 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). She was also requested to submit evidence of her identity and nationality as set forth in 8 C.F.R. § 244.9(a)(1). The record reflects that the applicant failed to respond to the request.

The director denied the application on January 15, 2004. An appeal to the AAO from that decision was filed on February 10, 2004. The AAO remanded the case to the director of the VSC to explain in writing the specific reason(s) for denial of the application.

On January 26, 2006, the director of the VSC denied the application on the basis that the applicant had failed to establish her eligibility for late registration.

On appeal, counsel for the applicant asserts that the applicant: was a 15-year old high school student during the time of initial registration and is not at fault for the late filing of her application; her parents filed late initial applications for TPS because of medical issues; and that there has been confusion regarding documents connected with her father's TPS application. In support of the appeal, counsel submits additional documentation relating to the applicant's parents.

The only provisions for late registration of an initial TPS application are those described in 8 C.F.R. § 244.2(f)(2). Although the applicant has submitted evidence in an attempt to establish her qualifying continuous residence and continuous physical presence in the United States during the requisite time periods, this evidence does not

mitigate the applicant's failure to establish that she qualifies for late registration. 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). Consequently, the director's conclusion that the applicant failed to establish her eligibility for late registration will be affirmed.

It is noted that a review of the alien registration file relating to the applicant's father, [REDACTED] reflects that he was apprehended on September 18, 1991, upon arrival at the Miami International Airport, attempting to enter the United States from Guatemala with a counterfeit Alien Registration Card. At the time of his apprehension, the applicant's father was in possession of a Guatemalan passport and provided a sworn statement to CIS officials that he was a native and citizen of Guatemala, born on February 10, 1965, in Retalhuleu, Guatemala, and that both of his parents were Guatemalan. The applicant's father was determined to be inadmissible to the United States and was returned to Guatemala after having withdrawn his application for admission into the United States.

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.