U.S. Department of Homeland Security
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U.S. Citizenship and Immigration Services

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[redacted]

FILE: [redacted] OFFICE: CALIFORNIA SERVICE CENTER DATE: NOV 27 2006

[WAC 05 210 77411]

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: 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 director denied the application because the applicant failed to establish she was eligible for late initial registration.

On appeal, the applicant submits a statement 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 application with Citizenship and Immigration Services (CIS) on April 28, 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 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 February 5, 2006, the applicant was requested to submit evidence establishing her eligibility for late initial registration as set forth in 8 C.F.R. § 244.2(f)(2). The applicant was also requested to submit evidence establishing her identity and nationality and her qualifying continuous residence and continuous physical presence in the United States during the requisite periods. The applicant, in response, provided evidence to establish her identity and nationality and evidence relating to her qualifying residence and physical presence in the United States. She also submitted CIS correspondence dated January 3, 2006, acknowledging the applicant's Freedom of Information Act (FOIA) request.

The director determined that the applicant had failed to establish she was eligible for late registration and denied the application on April 11, 2006.

On appeal, the applicant claims that she qualifies for late initial registration because she has a pending asylum application. The applicant states that she has filed a FOIA request seeking to obtain a copy of her asylum application but has not yet received a copy of her record. Finally, the applicant states that she is the beneficiary of an approved immigrant visa petition filed on her behalf by her husband, a lawful permanent resident, but she is separated from her husband because of spousal abuse.

The applicant's status as the beneficiary of an approved Form I-130, Petition for Alien Relative, does not qualify her for late initial registration under 8 C.F.R. § 244.2(f)(2)((ii). In order to qualify for late initial registration, the applicant must have filed an application for adjustment of status during the initial registration period. There is no indication in the record that the applicant ever filed an adjustment application.

The applicant has not submitted any independent evidence to corroborate her assertion that she has a pending asylum application before CIS. There is no indication in CIS computer records that the applicant has ever filed an asylum application. Therefore, the applicant's claim that she qualifies for late initial registration on this basis cannot be accepted.

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 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.