

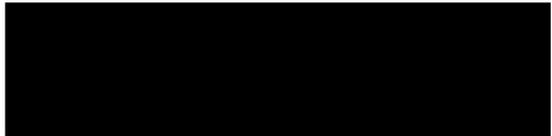


U.S. Citizenship
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Services

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SEP 25 2006

FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER
[WAC 05 148 85662]

Date:

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.

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 (AAO) on appeal. The appeal will be dismissed.

The applicant 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 record reveals that on March 12, 2001, during the initial registration period, the applicant filed an earlier TPS application under Citizenship and Immigration (CIS) receipt number SRC 01 192 58143. The Texas Service Center (TSC) Director denied that application due to abandonment on August 24, 2002, because the applicant failed to respond to a request for additional evidence. On August 1, 2002, the applicant had been requested to submit evidence establishing her nationality and identity. The record does not contain a response from the applicant. Because the application was denied due to abandonment, no appeal was available; the applicant could, however, have filed a motion to reopen within 33 days from the date of the decision. The record does not reflect that the applicant filed a motion to reopen the denial decision. The record reflects that the director's letters were sent to the address of record at that time, and that the applicant did not provide a new address until her application, marked as an application for re-registration, that was signed by the applicant on September 10, 2002, and that was properly received by the Texas Service Center on December 30, 2002.

The applicant filed a subsequent Form I-821, Application for Temporary Protected Status, on November 19, 2003, under CIS receipt number SRC 04 040 53479, and indicated that it was an initial application for TPS. Although the applicant had indicated she was filing an initial TPS application, the TSC Director denied that application on August 30, 2004, stating that the initial TPS application had been denied on August 24, 2002, and that the applicant was ineligible for re-registration of temporary TPS benefits. On December 20, 2004, the applicant filed an appeal from this denial decision. Although the applicant had attempted to file this appeal earlier, it had been improperly sent to the AAO. The TSC Director treated the untimely filed appeal as a motion to reopen and dismissed the motion on February 1, 2005, after determining that the applicant had not established her eligibility for TPS.

The applicant filed the current Form I-821, on February 25, 2005, and indicated that this was an application for re-registration or extension of TPS benefits.

The director denied this application 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 states that she arrived in the United States prior to 2001, and is submitting evidence to establish her continuous residence here. In support of the appeal, the applicant submits additional evidence consisting of: another copy of her El Salvadoran birth certificate; and, the State of Texas Birth Certificate for a child born to her on March 31, 1999.

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, to September 9, 2002. The record reveals that the applicant filed the current application with CIS on February 25, 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. If the qualifying condition or application has expired or been terminated, the individual must file within a 60-day period immediately following the expiration or termination of the qualifying condition in order to be considered for late initial registration. 8 C.F.R. § 244.2(g).

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).

Although the applicant had previously filed a TPS application during the initial registration period, any Form I-821, subsequently submitted by the same applicant after an initial application is filed and a decision rendered must be considered as either a request for annual registration or as a new filing for TPS benefits. 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. Because the applicant's initial Form I-821 was denied on August 24, 2002, this current application can only be considered as an application for late initial registration. The applicant did not, however, establish that she has met any of the criteria that would make her eligible for late initial registration. 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), and the application must also be denied for this reason.

The applicant also failed to submit sufficient evidence to establish her continuous residence in the United States since February 13, 2001, and her continuous physical presence in the United States since March 9, 2001. The record contains photocopies of: the applicant's El Salvadoran birth certificate; the State of Texas Birth Certificate for a child born to her on March 31, 1999; a money transfer receipt dated December 20, 2000; and, an affidavit from an acquaintance attesting to the applicant's presence in the United States and her good moral character. The applicant has not submitted evidence through the filing date(s) of her application(s). Therefore, the applicant has not established that she has met the requirements under 8 C.F.R. § 244.2 (b) and (c), and the application must also be denied for these reasons.

In addition, the record contains only a photocopy of a birth certificate, with English translation. The applicant failed to submit photo identification or a national identity document from her country of origin bearing a photograph and/or fingerprint. The birth certificate alone is insufficient to establish the applicant's identity and nationality under the provisions of 8 C.F.R. § 244.9(a)(1). Therefore, the application must also 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.