

PUBLIC COPY



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

**identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy**



FILE:



Office: California Service Center

Date: APR 30 2007

[WAC 06 013 70013]

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:

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 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 October 13, 2005, under CIS receipt number WAC 06 013 70013. 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 parole; 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 March 10, 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).

With her TPS application, the applicant submitted photocopies:-

- An Employment Authorization Card, issued in 2004;
- Her El Salvador birth certificate (in Spanish), with an English translation;
- A Final Decree of Divorce, stamped filed in September 2002;
- A Display Demographic Information from Health Ambulatory Patient Management System, dated October 4, 2005, which indicates the applicant's maternity-related treatment from October 27, 2000 through April 12, 2001;
- Form 1040 Individual Income Tax Returns, with W-2 forms, for 2001, 2002, and 2003;
- A page of an Apartment Lease Contract, dated May 5, 2003;
- A page of an Apartment Lease Contract, dated April 30, 2004;
- A page of an Apartment Lease Contract, dated May 17, 2005;
- Five statements from Texas Star program, indicating Medicaid eligibility for the applicant's child, effective March 1, 2003;
- An Earnings Statement, for period ending April 9, 2005;
- A T-Mobile billing statement, issued in September 2005; and,
- An employment reference letter from [REDACTED] of PLS Check Cashers, dated August 22, 2005, stating that the applicant has been employed with the company since August 2004.

On February 16, 2006, the applicant was provided the opportunity to submit evidence establishing her eligibility for TPS, including eligibility for late initial late registration as set forth in 8 C.F.R. § 244.2(f)(2). In her response to the notice of intent to deny, the applicant submitted:-

- Court disposition records, from Harris County District Clerk, Houston, Texas, indicating dismissal of a charge, on November 3, 2005;
- A filled-in Income Verification Form, dated May 2, 2003;
- Two cash receipts, dated in 2003;
- A registration form for a computer class, dated August 6, 2004;
- A health benefits notice, dated November 15, 2003; and,
- A CIS Case Status Inquiry – Request Form, dated September 3, 2003.

On appeal, the applicant requests reconsideration of her TPS application. With her appeal, in an attempt to establish her continuous residence and her continuous physical presence in the United States, the applicant submits her medical records indicating maternity-related treatment, during April 2001; and, some of the same evidence earlier provided.

It is noted that the record indicates that the applicant had a pending Form I-130, Petition for Alien Spouse, and a Form I-485, Application for Adjustment of Status. However, the record reveals that a Petition for Alien Relative filed on behalf of the applicant by [REDACTED], on April 25, 2001, and the applicant's Application for Adjustment of Status, were denied on January 23, 2004, after [REDACTED], the petitioner, withdrew the I-130 petition.

In order for the applicant to be eligible for late TPS registration, based on a pending Form I-485, Application for Adjustment of Status, she should have submitted her TPS application, no later than 60 days immediately following denial of the adjustment application pursuant to the regulations 8 C.F.R. § 244.2(f)(2) and 8 C.F.R. § 244.2(g). The applicant filed her initial TPS application on October 13, 2005, over eight months after her Adjustment Of Status Application was denied.

The evidence submitted does not mitigate the applicant's failure to file her Form I-821, Application for Temporary Protected Status, within the initial registration period. Therefore, the applicant does not meet the regulatory requirements for late initial 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 decision to deny the application for temporary protected status will be affirmed.

It is also noted that the record reveals that the applicant was apprehended on entry, on June 28, 1996, placed in Removal Proceedings, and was ordered removed by the Immigration Judge on April 10, 1997.

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.