

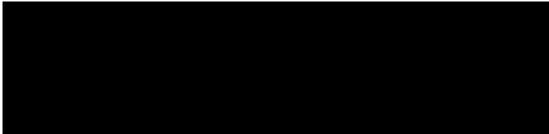


U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
[WAC 05 161 78320]

Office: California Service Center

Date: APR 30 2007

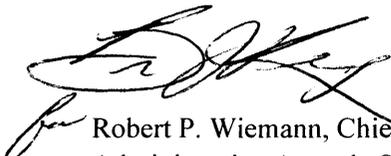
IN RE: Applicant: [REDACTED]

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 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 March 10, 2005, under CIS receipt number WAC 05 161 78320. The director denied the application on April 4, 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 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).

On appeal, the applicant states that she is eligible for TPS as she has been in the United States prior to February 13, 2001, and she has been receiving Employment Authorization Cards as an asylum applicant. With her appeal, in an attempt to establish eligibility for TPS, the applicant submits various receipts and documents, including eight EADs dating from December 1996, and three California identification cards, dating from December 2, 1996.

In order for the applicant to be eligible for late TPS registration, as a former asylum applicant, she should have submitted her TPS application, no later than 60 days immediately following termination of her asylum application pursuant to the regulations 8 C.F.R. § 244.2(f)(2) and 8 C.F.R. § 244.2(g). The record reflects that on May 17, 1995, the applicant was deemed ineligible for asylum and her asylum application was denied. It is noted that the asylum denial notice was mailed to the applicant's last known address, and was returned unclaimed. The applicant continued to receive EADs, inadvertently, and her last EAD was denied on August 26, 2004. Therefore, the applicant knew (or should have known) that her asylum application had been denied in that her Application for Employment Authorization, Form I-765, was denied. However, the applicant filed her initial TPS application on May 10, 2005, over eight months after her last Employment Authorization 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 also claims that she simply wants her EAD and CIS mishandled her EAD applications. However, as the EAD benefit attaches to the TPS application, which is denied, the applicant is not eligible for employment authorization.

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.

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.