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U.S. Citizenship
and Immigration
Services

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[REDACTED]

FILE:

[REDACTED]

OFFICE: Vermont Service Center

DATE: AUG 22 2007

[consolidated with

[REDACTED]

[EAC 07 023 70281]

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, Vermont Service Center (VSC). It is now on appeal before the Administrative Appeals Office (AAO). 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 director denied the application on the grounds that the applicant failed to establish her eligibility for late TPS registration and did not submit an identity document with her photograph or fingerprints.

On appeal, the applicant submits some additional documentation, including a letter with her signature authorizing an immigration consulting service to assist her in this application. However, no Form G-28, Notice of Entry of Appearance as Attorney or Representative, has been filed by the consulting service. Accordingly, the decision on this appeal will be sent exclusively to the applicant.

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 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.

El Salvadoran nationals applying for TPS must demonstrate continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States since March 9, 2001. The initial registration period for El Salvadorans was from March 9, 2001, through September 9, 2002.

To qualify for late registration, the applicant must provide evidence that during the initial registration period she met at least one of the conditions described in 8 C.F.R. § 244.2(f)(2) above, and filed her TPS application within 60 days of the expiration of that condition, as prescribed in 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. See 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. See 8 C.F.R. § 244.9(b).

The applicant filed her first Form I-821, Application for Temporary Protected Status, with the California Service Center (CSC) on May 9, 2005 – more than two and a half years after the close of the initial registration period for El Salvadoran nationals. That application [WAC of 221 71578] was denied by the CSC Director on May 26, 2006, on the grounds that the applicant failed to establish her eligibility for late TPS registration and proof of her identity. No appeal was filed.

On October 23, 2006, the applicant filed the current Form I-821, this time with the Vermont Service Center, and identified it as another initial application to register for TPS. Since it was not accompanied by any additional documentation, the VSC Director denied the application on January 10, 2007, on the same grounds that the CSC Director had denied the first initial application – *i.e.*, failure to establish eligibility for late TPS registration and failure to submit an identity document with the applicant's photograph or fingerprints.

On appeal the applicant submits photocopies of two personal cards from El Salvador – an electoral registration card and a personal identity card – both of which bear her photograph. These cards establish the applicant's national identity, in accordance with the evidentiary requirements of 8 C.F.R. § 244.9(a)(1), and thereby overcome that ground for denial. However, the record still contains no evidence that the applicant is eligible for late TPS registration. On appeal the applicant submits a photocopy of her certificate of marriage to [REDACTED] on August 27, 2006. Even if her husband was a TPS registrant, however, that would not make the applicant eligible for late TPS registration as his spouse under 8 C.F.R. § 244.2(f)(2)(iv)

because the marital relationship did not exist during the initial registration period for El Salvadoran nationals in 2001-2002. No other evidence has been submitted to show that the applicant is eligible for late TPS registration under any of the qualifying criteria at 8 C.F.R. § 244.2(f)(2). Though the applicant stated on Form I-290B that a brief in support of the appeal would be submitted within 30 days, no such brief has been submitted.

Accordingly, the VSC Director's denial of the current application will be affirmed on the ground that its filing in October 2006 was more than four years after the close of the initial registration period in September 2002 and the applicant has failed to establish her eligibility for late TPS registration under 8 C.F.R. § 244.2(f)(2).

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 that burden.

ORDER: The appeal is dismissed.