



U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED] Office: California Service Center Date: **JAN 04 2007**
[WAC 05 218 75488]

IN RE: Applicant: [REDACTED]

PETITION: Application for Temporary Protected Status under Section 244 of the Immigration and
Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF PETITIONER: 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 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 November 26, 2003, under CIS receipt number SRC 04 024 53585. The director denied that application on November 8, 2004, because the applicant failed to establish her eligibility for TPS. The director noted that a review of the record revealed that the applicant entered the United States on January 13, 2002, and determined that the applicant failed to establish her continuous residence in the United States since February 13, 2001, and continuous physical presence since March 9, 2001. The record does not reflect an appeal of that decision.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on May 6, 2005, and indicated that she was filing a re-registration application. The director denied that application on February 21, 2006, because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for TPS.

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.

On appeal, applicant states that she is eligible for TPS as the dependent child of her parents who are TPS recipients. In support of her appeal, in an attempt to establish eligibility for TPS, the applicant submitted a copy of her birth certificate, with an English translation; a copy of EAD cards for her parents, together with copies of her parents' TPS applications; a copy of the biographic page of her passport; her school transcripts for the school years 2003 through January 2006; and immunization records showing inoculations during the period from August 2001 and ending in August 2002; and 1040 U.S. Individual Income Tax Returns for her parent for 2003, 2004 and 2005 all of which show applicant as a dependent. However, as noted by the director, the record indicates that the applicant entered the United States on January 13, 2002, and therefore, cannot establish her continuous residence in the United States prior to February 13, 2001, and continuous physical presence since March 9, 2001.

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 Citizenship and Immigration Services (CIS) on May 6, 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 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).

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). Therefore, the application also must 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.