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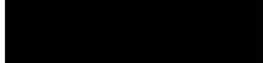
U.S. Citizenship
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Services

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FILE:



[WAC 05 214 75728]

Office: CALIFORNIA SERVICE CENTER

Date: JAN 04 2007

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:



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, 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 applicant filed her initial TPS application during the initial registration period under Citizenship and Immigration Services (CIS) receipt number SRC 02 261 53861. The Director of the Texas Service Center denied that application on March 28, 2003, due to abandonment because the applicant failed to respond to a request for additional evidence dated January 29, 2003. It is noted that the request for additional evidence was mailed to the applicant in care of counsel. Counsel for the applicant filed a motion to reopen the case on June 11, 2003, almost three months after the issuance of the denial decision. On motion, counsel asserted that the applicant had relocated from California to Arkansas and had only recently been able to obtain additional evidence relating to her residence and physical presence in the United States. Counsel submitted a Page Comm customer service and purchase agreement dated October 7, 1999, and an appointment card from Family Planning Centers of Greater Los Angeles, California, reflecting medical appointments in October and November 2000, both dated prior to the requisite periods to establish continuous residence and continuous physical presence in the United States, and a mailing envelope postmarked December 1, 2001.

On June 23, 2004, the Director of the Texas Service Center granted the motion to reopen and provided the applicant with another opportunity to submit additional evidence to establish her qualifying continuous residence and continuous physical presence in the United States during the requisite periods. The request was mailed to the applicant in care of counsel, but the applicant once again failed to respond to the request. The director, therefore, denied the application again on September 20, 2004, due to abandonment because the applicant failed to respond to the second request for additional evidence dated June 23, 2004.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on May 2, 2005, and indicated that she was re-registering for TPS or renewing her temporary treatment benefits.

The director denied the application on October 28, 2005, because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration or renewal of her temporary treatment 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.

In this case, the applicant has not previously been granted TPS. Therefore, she is not eligible to re-registration or to renew temporary treatment benefits. Consequently, the director's decision to deny the application will be affirmed.

It is noted that the director's decision did 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 Salvadorans was from March 9, 2001 through September 9, 2002. The record reveals that the applicant filed the current application with CIS on May 2, 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 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 her burden of proof, the applicant must provide supporting documentary evidence of eligibility apart from 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). The applicant has also failed to submit sufficient evidence to establish her qualifying continuous residence and continuous physical presence in the United States during the requisite periods as described at 8 C.F.R. § 244.2(b) and (c). Therefore, the application also must be denied for these reasons.

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.