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FILE: [REDACTED] Office: VERMONT SERVICE CENTER Date: JAN 17 2007
[EAC 03 247 51894]

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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Vermont Service Center (CSC), 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 director denied the application as an application for annual re-registration or renewal of temporary treatment benefits because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration or renewal.

On appeal, the applicant submits a letter and additional documentation.

As stated in 8 C.F.R. § 244.1, "register" means "to properly file, with the director, a completed application, with proper fee, for [TPS] during the registration period designated under section 244(b) of the Act."

The record reveals that the applicant filed an initial Form I-821, Application for Temporary Protected Status, with the Vermont Service Center (VSC) on April 10, 2001 (EAC 01 178 52019 relates). On July 9, 2002, that application was denied due to abandonment because the applicant failed to respond to a request for evidence to establish her qualifying continuous residence and continuous physical presence in the United States during the requisite time periods. Since the application was denied due to abandonment there was no appeal available; however, the applicant was advised that she could file a motion to reopen within 30 days from the date of the denial. The applicant filed a motion to reopen the director's decision on July 31, 2002. On March 12, 2003, the director dismissed the motion and reaffirmed the decision to deny the application.

The applicant filed the current Form I-821 on September 2, 2003. The director denied the application on September 30, 2003, as an application for annual re-registration or renewal of temporary treatment benefits because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration or renewal.

Any Form I-821 application subsequently submitted by the same applicant after an initial application is filed and a decision on that application is rendered, must be considered as either a request for annual re-registration or renewal of temporary treatment benefits, or as a new filing for TPS benefits. If an applicant is filing an application for annual re-registration, a previous grant of TPS must have been afforded the applicant, as only those individuals who are granted TPS must re-register annually. In addition, the applicant must continue to maintain the conditions of TPS eligibility. 8 C.F.R. § 244.17. If an applicant is applying to renew her temporary treatment benefits, she must have a pending TPS application.

Since the applicant's first Form I-821 application was denied on July 9, 2002, this application cannot be considered as an application for annual re-registration. Furthermore, since she no longer had a pending TPS application, this application cannot be considered an application for renewal of temporary treatment benefits. The current Form I-821 can only be considered as a new filing for TPS benefits under the provisions of late registration, since the application was filed outside of the initial registration period.

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 phrase continuously physically present, as defined in 8 C.F.R. § 244.1, means actual physical presence in the United States for the entire period specified in the regulations. An alien shall not be considered to have failed to maintain continuous physical presence in the United States by virtue of brief, casual, and innocent absences as defined within this section.

The phrase continuously resided, as defined in 8 C.F.R. § 244.1, means residing in the United States for the entire period specified in the regulations. An alien shall not be considered to have failed to maintain continuous residence in the United States by reason of a brief, casual and innocent absence as defined within this section or due merely to a brief temporary trip abroad required by emergency or extenuating circumstances outside the control of the alien.

Persons applying for TPS offered to El Salvadorans 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 Salvadorans was from March 9, 2001, through September 9, 2002. As previously indicated, the applicant filed the current Form I-821 on September 2, 2003, one year after the initial registration period had ended.

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).

In this case, 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.

Furthermore, it is noted that the applicant has failed to submit sufficient credible evidence to establish that she satisfies the continuous residence and continuous physical presence requirements under the provisions of 8 C.F.R. §§ 244.2(b) and (c). Therefore, the application must also 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.