



U.S. Citizenship
and Immigration
Services

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FILE:

Office: CALIFORNIA SERVICE CENTER

Date: JUL 06 2007

[WAC 05 214 75178]

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: SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the California Service Center. Any further inquiry must be made to that office.

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

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 claims to be a native and 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 an initial Form I-821, Application for Temporary Protected Status, under receipt number SRC 01 164 68230 during the initial registration period. The Director, Texas Service Center, denied that application on May 13, 2003, after determining that the applicant had abandoned her application by failing to adequately respond to a Notice of Intent to Deny. After a review of the record, the Chief, AAO, concurs with the director's denial decision.

Since the application was denied due to abandonment, there was no appeal available; however, the applicant could have filed a request for a motion to reopen within 30 days from the date of the denial. The applicant did not file a motion to reopen during the requisite timeframe. After review of the record, the Chief, AAO, affirms the director's denial decision.

The applicant filed a subsequent Form I-821 on May 2, 2005, and indicated that she was re-registering for TPS.

The director denied the re-registration application because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS.

If an alien is filing a re-registration application, 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.

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.

There is no indication that the applicant was attempting to file a late initial application for TPS instead of an annual re-registration. Moreover, there is no evidence in the file to suggest that the applicant is eligible for late registration for TPS under 8 C.F.R. § 244.2(f)(2).

Furthermore, the applicant has provided insufficient evidence to establish that she is a national or citizen of El Salvador. She has provided copies of her purported birth certificate along with English translations. However, birth certificates alone does not establish nationality. The record does not contain any photo identification such as a passport or national identity document. 8 C.F.R. § 244.2(a) and § 244.9(a)(1).

The identity and nationality of an applicant is fundamental to the applicant's claim for TPS. The record contains a Form I-213, Record of Deportable/Inadmissible Alien, dated January 5, 1999 indicating that the United States Border Patrol apprehended the applicant after she illegally entered the United States by wading across the Rio Grande River on January 3, 1999. In her statement, she told the interviewing Border Patrol Agent that her name was [REDACTED], that she was born on December 29, 1981, and that her father was

named [REDACTED] and her mother was named [REDACTED]. However, the applicant's birth certificate, her TPS applications, her applications for employment authorization and other documents contained in the record show her name as [REDACTED] that she was born on January 6, 1981 and that her father was named [REDACTED] and her mother was named [REDACTED]. The applicant has not submitted any evidence to resolve this conflicting claim. It is noted that in his decision dated March 4, 1999, an Immigration Judge did indicate that the applicant had claimed that [REDACTED] was her true name in a taped record. The applicant's conflicting claims as to her true identity and date of birth not only discredit the applicant's claim as to the critical elements of identity and nationality, but, in the absence of an explanation or rebuttal, also indicate an overall lack of credibility regarding the entire claim. *Cf. Matter of O-D-*, 21 I&N Dec. 1079 (BIA 1998). Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988).

In removal proceedings held on March 4, 1999, an Immigration Judge in Houston, Texas, ordered the applicant deported "in absentia" to El Salvador. It is further noted that the record contains an outstanding Form I-205, Warrant of Removal/Deportation, under the name [REDACTED] issued by the District Director of the Houston, Texas, office of Citizenship and Immigration Services, (formerly, the Immigration and Naturalization Service) on March 29, 2000.

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 cited 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.