



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

**Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy**

MI

[Redacted]

FILE: [Redacted] Office: TEXAS SERVICE CENTER
[Redacted] consolidated herein]
[SRC 04 227 54357]

Date: MAR 09 2007

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:

[Redacted]

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.

Cindy M. Gomez
Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Texas Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The applicant is 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 director denied the application because the applicant failed to establish she was eligible for late initial registration.

On appeal, counsel states:

██████████ had filed her late initial TPS registration in a timely manner as at the time of filing the application she had and still has a I-360 application pending. During the initial registration period for TPS ██████████ was in the process of getting her I-130 approved. Upon finding out that her I-130 had been disapproved because her husband had abandoned her and due to the domestic violence she then filed the I-360 application. It was during the pendency of the I-360 that ██████████ filed for TPS. ██████████ has been continuously present in the United States since May of 1995 has no criminal record and is admissible as an immigrant.

Section 244(c) of the Act, and the related regulations at 8 C.F.R. § 244.2, provide that an applicant who is a national of a foreign state designated by the Attorney General 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.

Persons applying for TPS offered to El Salvadorans must demonstrate continuous residence in the United States since February 13, 2001, and continuous physical presence since March 9, 2001. The initial registration period for Salvadorans was from March 9, 2001, through September 9, 2002. The Secretary of the Department of Homeland Security has granted an extension of the TPS designation with validity until September 9, 2007, upon the applicant's re-registration during the requisite time period. The record reflects that the applicant filed her initial application with Citizenship and Immigration Services, (CIS), on August 23, 2004.

To qualify for late registration, an applicant must provide evidence that during the initial registration period, he or 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 or 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 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 director determined that the applicant had failed to establish she was eligible for late registration and denied the application on February 28, 2005.

The record reflects that the applicant had a Form I-485, Application to Register Permanent Residence or Adjust Status, pending during the initial registration period. While the applicant's pending application for adjustment of status rendered her eligible for late registration, CIS regulations also require a late registration to be filed within a 60-day period immediately following the expiration or termination of conditions that made the applicant eligible for late registration. 8 C.F.R. § 244.2(g). Because the applicant's application for adjustment of status was denied on September 29, 2003, her 60-day period for late registration under TPS expired on November 3, 2003. The applicant filed her application with the director on August 23, 2004.

Counsel states that the applicant filed her late initial TPS registration in a timely manner as at the time of filing the application she had, and still has, a Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant, that is pending. The record contains the petition and reflects that it was filed on October 20, 2003. However, to be eligible for late initial registration, applicants must provide evidence that the qualifying factor occurred during the *initial* registration period [emphasis supplied] from February 13, 2001 through March 9, 2001. 8 C.F.R. § 244.2(f)(2). Individuals, such as the applicant, who filed Forms I-360 after the initial registration period, are not eligible under this provision. It is noted that on January 4, 2006, the processing of the applicant's Form I-360 was automatically terminated because the applicant had failed to respond to two separate Notices of Action, dated August 24, 2004 and September 1, 2005.

The applicant has not submitted any evidence to establish that she has met the criteria for late registration described in the regulations at 8 C.F.R. § 244.2(f)(2). Consequently, the director's decision to deny the application for TPS is affirmed.

It also is noted that a report from the Metropolitan Police Department of Nashville and Davidson County, Tennessee, reflects that the applicant was arrested on May 16, 2002, under the charge of "5430-Lic, Driver Lic Req," [REDACTED]. However, no final court disposition for that arrest has been provided for the record.

An alien applying for TPS 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.