



U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
[WAC 05 236 70642]

OFFICE: California Service Center

DATE: MAY 14 2007

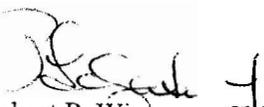
IN RE: Applicant: [REDACTED]

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.


Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, California 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 record reveals that the applicant filed a first Form I-821, Application for Temporary Protected Status, with the Nebraska Service Center (NSC) on January 30, 2003, after the initial registration period had ended (LIN 03 095 50074 relates). The NSC director denied that application on May 3, 2003, because the applicant failed to establish she was eligible for late registration. After a review of the record, the Chief, AAO, concurs with the director's denial decision.

The applicant filed the current Form I-821 with the CSC on May 24, 2005, and indicated that it was an initial application. The CSC director treated the application as an application for annual re-registration and denied it on April 21, 2006, because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS. The applicant filed her current appeal from that decision on May 22, 2006.

On appeal, counsel asserts that the CSC director's decision is in error because the applicant was filing an initial application for TPS, not an application for re-registration. Counsel further asserts that the applicant is eligible for late registration because her spouse is a TPS registrant and that she meets all of the other eligibility requirements for TPS.

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. As previously discussed, the applicant filed the current application with Citizenship and Immigration Services (CIS) on May 24, 2005.

To qualify for late registration, the 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).

There are discrepancies encountered in the evidence presented pertaining to the applicant's date of entry into the United States and her marital status. The record relating to the applicant's claimed spouse, [REDACTED] who was granted TPS on August 28, 2001, reveals that at the time of filing his initial TPS application on May 26, 2001, and when filing an application for annual re-registration on November 6, 2002, he claimed that he was married but that his spouse (the applicant) was residing in El Salvador. It was not until August 27, 2003, when filing another application for annual re-registration, that he claimed that the applicant was residing with him in the United States. Also, the applicant claimed at the time of filing her first TPS application on January 30, 2003, and when filing an application for annual re-registration on September 15, 2003, that she was single. It was not until her first application was denied due to her inability to establish eligibility for late registration that she claimed to be married. Furthermore, there is no marriage certificate in either the applicant's file, or the file relating to her claimed spouse, to establish that she was ever married to Mr. [REDACTED]

These discrepancies in the documentation contained in the records of the applicant and her claimed spouse have not been explained and call into question the applicant's ability to document the requirements under the statute and regulations. Doubt cast on any aspect of the evidence submitted may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. Further, it is incumbent on the applicant to resolve any inconsistencies in the record by independent objective evidence; any 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. (Comm. 1988).

It is concluded that the applicant has failed to provide sufficient evidence to establish that she has met any of the criteria for late registration described in 8 C.F.R. § 244.2(f)(2). Furthermore, the applicant has not satisfactorily established that she meets the continuous residence and continuous physical presence requirements described in 8 C.F.R. § 244.2(b) and (c). Therefore, the director's decision to deny the application will be affirmed.

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.