



U.S. Citizenship
and Immigration
Services

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[REDACTED]

FILE: [REDACTED] OFFICE: Vermont Service Center DATE: NOV 16 2007
[EAC 07 053 70798]

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.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Vermont Service Center (VSC). It is now on appeal before the Administrative Appeals Office (AAO). 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 on the ground that the applicant failed to establish her eligibility for late registration.

On appeal, the applicant refers to her prior asylum application and an immigrant petition for relative filed on her behalf by her husband, and requests that her case be reviewed and approved.

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

El Salvadoran nationals applying for TPS 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 El Salvadorans was from March 9, 2001, through September 9, 2002. The applicant filed her initial Form I-821, Application for Temporary Protected Status, on November 22, 2006 -- more than four years after the close of the initial registration period for El Salvadoran nationals.

To qualify for late registration, the applicant must provide evidence that during the initial registration period she met at least one of the conditions described in 8 C.F.R. § 244.2(f)(2) above, and that she filed her TPS application within 60 days of the expiration of that condition, as prescribed in 8 C.F.R. § 244.2(g).

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 Citizenship and Immigration Services (CIS). *See* 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. *See* 8 C.F.R. § 244.9(b).

On April 24 2007, the director denied the application for TPS on the ground that the evidence submitted by the applicant, in response to a notice of intent to deny, failed to establish that she was eligible for late initial registration under any of the conditions enumerated in 8 C.F.R. § 244.2(f)(2).

On appeal, the applicant implies that she is eligible for late TPS registration by virtue of her application for asylum, and submits photocopies of employment authorization cards she was issued for the years 1994 to 2006 based on her pending asylum application. The applicant also submits photocopies of her marriage certificate, showing that she and [REDACTED] were married in Los Angeles, California, on April 1, 2000, and a Form I-130, Immigrant Petition for Relative, that her husband filed on her behalf at the CSC on April 30, 2001.

The record confirms that the applicant filed an asylum application on February 17, 1994, which was pending during the initial registration period for TPS applicants from El Salvador and is therefore a qualifying condition for late registration under 8 C.F.R. § 244.2(f)(2)(ii). CIS records indicate that the asylum application was denied by the Asylum Office in Los Angeles on July 31, 2005, after the applicant failed to appear for an interview scheduled for July 16, 2005. Since the asylum application was denied on July 31, 2005, the applicant was required to file her application for TPS by September 29, 2005, to meet the 60-day filing deadline prescribed in 8 C.F.R. § 244.2(g). The applicant did not do so. It was more than a year later before she filed for TPS on

November 22, 2006. Accordingly, the applicant is not eligible for late initial registration on the basis of her asylum application because she did not file for TPS during the 60-day period immediately following the denial of the asylum application, as required under 8 C.F.R. § 244.2(g).

With respect to the Form I-130 filed in April 2001 by the applicant's husband – a legal permanent resident since March 3, 1995 – CIS records indicate that it is still pending. An Immigrant Petition for Relative filed by her husband, however, is not a type of application identified in 8 C.F.R. § 244.2(f)(2)(ii) that would make the applicant eligible for late TPS registration. Nor does it make the applicant eligible for late TPS registration under any other criteria of 8 C.F.R. § 244.2(f)(2).

For the reasons discussed above, the director's denial of the application will be affirmed on the ground that the applicant has failed to establish her eligibility for late TPS registration.

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 that burden.

ORDER: The appeal is dismissed.