



U.S. Citizenship
and Immigration
Services

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FILE:



Office: California Service Center

Date: OCT 10 2007

[WAC 05 228 80630]

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.

for 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 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 late TPS application on May 16, 2005, under CIS receipt number WAC 05 228 80630. The director denied the application on May 3, 2006, because the applicant failed to establish that she was eligible for late initial registration for TPS.

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 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 record reveals that the applicant filed her initial application with Citizenship and Immigration Services (CIS) on May 16, 2005.

To qualify for late registration, the applicant must provide evidence that during the initial registration period he or she 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). On appeal, the applicant asserts that she is eligible for late initial registration for TPS because she has "a valid Labor Certification," and also states that she has a pending motion to reopen. With her appeal, the applicant submits photocopies of:

- 1) A letter, dated August 26, 1992, approving a labor certification application, Form ETA-750, shows [REDACTED] as Employer, and the applicant as the Alien;
- 2) A Labor Certification Application, Form ETA-750A;
- 3) A receipt notice for a motion to reopen, dated January 19, 2005; and,
- 4) A computer Case Status of the motion to reopen.

It is noted that the applicant had a pending Form I-485, Application for Adjustment (WAC 99 062 51062), which was based on an approved Form I-140, Immigrant Petition for Alien Worker (WAC 93 039 50256). In order for the applicant to be eligible for late TPS registration, on the basis of a pending Form I-485, the applicant should have submitted her TPS application, no later than 60 days immediately following termination of the Application for Adjustment of Status pursuant to the regulations 8 C.F.R. § 244.2(f)(2) and 8 C.F.R. § 244.2(g). The record reflects that the Form I-485 application, however, was denied on December 13, 2004, because the Form I-140 had been revoked. It is noted that a subsequent appeal, filed on January 19, 2005, under CIS receipt number WAC 05 074 52058, was rejected by the Director, California Service Center, on February 3, 2005, because the appeal was filed by the beneficiary (this applicant), and not by the petitioner. There is no indication that the petitioner filed an appeal of the denial of the Form I-140 petition. The applicant filed her initial TPS application on May 16, 2005, over ninety days after the denial of her application.

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.

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.