



U.S. Citizenship
and Immigration
Services

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[REDACTED]

FILE:

[REDACTED]

Office: California Service Center

Date:

SEP 04 2007

[WAC 05 236 70006]

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 California Service Center. 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, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The applicant is stated 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 record reveals that the applicant filed an initial TPS application on May 7, 2001, under CIS receipt number SRC 01 201 56302. The Director, Texas Service Center, denied that application on May 22, 2003, because the applicant failed to respond, within 30 days, to a January 14, 2003 notice of intent to deny to submit a photo identification. The record does not reflect that the applicant filed an appeal of that decision.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on May 24, 2005, under CIS receipt number WAC 05 236 70006, and indicated that she was re-registering for TPS. The director denied the re-registration application on May 2, 2006, because the applicant's initial TPS application had been denied and the applicant was not eligible to re-register for TPS.

On appeal, counsel states that CIS abused its discretion in denying the applicant TPS given that the applicant submitted the evidence requested to establish the length of her presence in the United States. Counsel does not submit additional evidence on appeal.

If the applicant is filing an application as a re-registration, 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.

In this case, 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.

Beyond the decision of the director, the applicant has not submitted sufficient evidence to establish her nationality and identity. The applicant has furnished a copy of a birth certificate and English translation and a copy of a Texas identification card; however, she has not submitted a national identity document from her country bearing a photograph and or/fingerprint. The birth certificate alone is insufficient to establish the applicant's identity and nationality under the provision of 8 C.F.R. § 244.9(a)(1). In addition, the applicant has not submitted sufficient evidence to establish her continuous residence in the United States from February 13, 2001 and her continuous physical presence since March 1, 2001. Therefore, the application will also be denied for these reasons.

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.