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U.S. Citizenship
and Immigration
Services

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[REDACTED]

FILE: [REDACTED] OFFICE: VERMONT SERVICE CENTER DATE: JAN 10 2008
[EAC 05 293 70035]

INRE: 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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Vermont 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 Mexico 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 that he is a national of a foreign state designated as eligible under the provisions of TPS. The director also denied the application because the applicant failed to establish that he was eligible for late registration.

On appeal, counsel asserts that the applicant is eligible for late registration as he is a spouse of an alien currently eligible to be a TPS registrant.

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.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2(a), provide that an applicant is eligible for TPS only if such alien establishes that he or she:

Is a national of a foreign state designated under section 244(b) of the Act;....

Persons applying for TPS offered to EI 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 his initial application with Citizenship and Immigration Services (CIS) on July 17, 2005.

To qualify for late registration, the applicant must provide evidence that during the initial registration period he feU 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.P.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.P.R. § 244.9(b).

The applicant indicated on his TPS application that he is a national of EI Salvador. Counsel submitted a statement indicating the applicant was born in Mexico, but last habituaUy resided in EI Salvador from 1990 to 1997 prior to moving to the United States in March 1997. As evidence, counsel submitted:

1. A copy of the applicant's Mexican passport.
2. A letter dated January 15, 2004, in the Spanish language with required English translation from Jose [REDACTED] Attorney in Educational Media in EI Salvador, who indicated the applicant rented one of his apartments located in [REDACTED] in EI Salvador from 1990 to 1996.
3. A letter issued on Janua [REDACTED] 19, 1996, in the Spanish language with required English translation from [REDACTED], Director of Educational Center EI Aguacate Canton Tacachico in EI Sa va or, woven le t e applicant's employment as a teacher in coordination from May 1990 to January 1996.
4. A Diploma issued by the Education Minister of EI Salvador on November 19, 1995.
5. A vaccination certificate reflecting vaccinations administered from 1996 through 1999. It is noted that the applicant's name was not listed on the certificate.

On June 2, 2006, the applicant was requested to submit evidence establishing his eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2). Counsel, in response, asserted that the applicant has been with his common law wife, [REDACTED], a national of EI Salvador, since 1989 and the applicant had resided in EI Salvador from 1990 to 1997. As evidence, counsel submitted copies of documents that was previously provided along with: 1) affidavits from friends and family members of the applicant's and [REDACTED], who attested to their relationship since 1989; 2) the applicant's identification card (with English translation) issued by the Education Minister of EI Salvador, which expired on June 21, 1990; 3) a permit to have a clothing stand (with English

translation) issued to the applicant and [REDACTED] on December 1, 1990, from the Municipal Treasury of Santa Ana in El Salvador; and 4) the El Salvadoran birth certificate (with English translation) of [REDACTED]

On July 20, 2006, the applicant was requested again to submit evidence establishing his eligibility for late registration as set forth in 8 C.F.R. § 244.2(£)(2). The applicant was advised that he had failed to establish that he was a national of El Salvador and was requested to submit evidence establishing El Salvadoran nationality. The notice was sent to counsel's address of record; however, no response was received prior to the issuance of the director's decision.

The director determined that the applicant had failed to establish that he is a national of El Salvador and failed to establish he was eligible for late registration and denied the application on September 7, 2006.

On appeal, counsel reiterates the applicant's claim to be a spouse of an alien currently eligible to be a TPS registrant. Counsel submits copies of documents that were previously provided along with a printout from CIS website regarding the El Salvador Family Code that was passed on December 13, 1993, recognizing non-matrimonial unions.

The letters from [REDACTED] and [REDACTED] **a** may only serve to establish that the applicant was residing in El Salvador from 1990 to 1996. Likewise, the affidavits from friends and family members may only serve to establish the applicant's on-going relationship with [REDACTED] since 1989. It is noted that none of these affidavits attested to the applicant's presence or residence in El Salvador. The letters and affidavits do not serve to establish that the applicant is a national of El Salvador.

Pursuant to 8 C.F.R. § 244.2(a), the first qualification for TPS is that the applicant must be a national of a designated foreign state. A common law marriage alone, to a TPS registrant, does not render the applicant eligible for the benefit being sought; he must meet all other requirements. Throughout the application process, counsel has not provided any credible evidence establishing that the applicant is a citizen of El Salvador or of any other designated foreign state. As a citizen and national of Mexico, the applicant is ineligible for the provisions of section 244 of the Act. Accordingly, the applicant is ineligible for the benefit being sought under 8 C.F.R. § 244.2(£)(2). Consequently, the director's decision to deny the application for TPS 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 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.