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U. S. Citizenship
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Services

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FILE:



Office: California Service Center

Date:

JAN 22 2008

[WAC 05 222 80007 as it relates to SRC 01 24956050]

INRE:

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 office California Service Center. Any further inquiry must be made to that office.

Robert P. Wienfann, 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 a citizen of EI 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 August 13, 2001, under Citizenship and Immigration Services (CIS) receipt number SRC 01 249 56050. The director denied that application for abandonment, on August 11, 2004, because the applicant failed to respond to a May 5, 2004 notice of intent to deny to submit evidence of the applicant's identity and nationality, and evidence of her continuous residence and continuous physical presence in the United States. The director, therefore, considered that application abandoned. 8 C.F.R. § 103.2(b)(13). A denial due to abandonment may not be appealed; however, an applicant may file a motion to reopen under 8 C.F.R. § 103.5 within 30 days of the denial decision. The record does not reflect that the applicant filed a motion to reopen.

The applicant filed subsequent applications, including the current Form 1-821, Application for Temporary Protected Status, on March 7, 2005, under CIS receipt number WAC 05 222 80007, and indicated that she was re-registering for TPS. The director denied this application on August 16, 2005, because the applicant's initial TPS application had been denied and the applicant was not eligible to re-register for TPS.

With her appeal, the applicant submitted additional evidence consisting of photocopies of:-

1. An untranslated letter (in Spanish) from Chamberlin Edmonds & Associates, Inc., dated December 2, 2000, and signed by _____ HCR;
2. A State of Georgia Certificate of Live Birth for her child, _____, born on November 28, 2000;
3. U.S Individual Income Tax Returns, Forms 1040A, for 2002, and 2004;
4. 5 invoices, dated in 2003, one from Georgia Natural Gas, and two each from AT&T, and BellSouth;
5. 2 paystubs, dated in 2002;
6. A Bank of America Statement, for the period November 25, 2003 through December 26, 2003;
7. An invoice from Charter *Camm* – Duluth, dated October 17, 2002;
8. An Apartment Rental Agreement, dated January 3, 2003;
9. A letter from Bank of America, dated December 9, 2005;
10. A lab data entry form, for her child, indicating data collected on November 30, 2000;
11. An unclear photo identification card;
12. An untranslated photo Cedula, and an untranslated birth certificate, both in Spanish; and,
13. The biographic page of the applicant's EI Salvador passport.

It is noted that the applicant stated on the Notice of Appeal to the Administrative Appeals Office (AAO), Form 1-290B, filed on September 19, 2005, that an appeal brief, with additional evidence, will be submitted within 30 days. However, the record does not reflect receipt of an appeal brief and/or additional evidence. Therefore, the record must be considered complete.

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 continuous residence and her continuous physical presence in the United States during the requisite period. It is noted that although the record indicates that the applicant gave birth to a child in the United States on November 28, 2000, there is no evidence for the period from the date of the child's birth to July 13, 2001. It is reasonable to expect that the applicant would be able to furnish supporting documents, such as post-natal and related medical documentation, to establish her continuous residence and continuous physical presence in the United States. Consequently, 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.