



U.S. Citizenship
and Immigration
Services

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FILE: [Redacted] Office: VERMONT SERVICE CENTER
[Redacted] consolidated herein]
[EAC 04 024 51777]

Date: MAR 04 2008

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:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the Vermont 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, Vermont Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is 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 applicant filed an initial Form 1-821, Application for Temporary Protected Status, during the initial registration period. The director denied that application on March 31, 2003, after determining that the applicant had failed to establish he met the continuous residence and continuous physical presence requirements for TPS and that he was a national of El Salvador. The applicant did not appeal the director's decision of denial.

The applicant filed this Form 1-821, on September 29, 2003, and indicated that he was re-registering for TPS.

The director denied the application after determining that the applicant had failed to establish he was eligible for late initial registration.

If an alien is filing a re-registration application, 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.

The applicant has not previously been granted TPS. Therefore, he is not eligible to re-register for TPS. Consequently, the director's decision to deny the application will be affirmed.

The director's decision explores the possibility that the applicant was attempting to file a late initial application for TPS ~~instead~~ of an annual re-registration.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an applicant may apply for TPS during the initial registration period, or:

- (f) (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.

The initial registration period for El Salvador was from March 9, 2001 through September 9, 2002. The record reveals that the applicant filed his initial application on April 12, 2002, and the current application with CIS on September 29, 2003.

To qualify for late registration, the applicant must provide evidence that during the initial registration period he 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).

The applicant has failed to provide any evidence to establish that this application should be accepted as a late initial registration under 8 C.F.R. § 244.2(f)(2). Therefore, the application also must be denied for this reason.

On August 27, 1997, the applicant submitted a Form 1-589, Request for Asylum and for Withholding of Deportation, for an El Salvadoran woman, a copy of a marriage certificate along with an English translation showing that he married her on April 15, 1989 in San Miguel, El Salvador. In addition, he submitted a signed Form 0-325 A, Biographic Information, also stating that he had married her on April 15, 1989 in El Salvador. The package also contained a statement purportedly signed by the woman requesting that the applicant be included as her spouse in her request for asylum. On May 7, 2001, the woman he claimed was his spouse was interviewed under oath by an Asylum Officer and stated that she did not know the applicant and had nothing to do with his inclusion on her asylum application. On his initial Form 1-821 filed on April 12, 2002, the applicant claimed that he was married to another woman who he had married in February 1995 in El Salvador. He also stated that he had no previous marriages. Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988).

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 cited 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.