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U.S. Citizenship  
and Immigration  
Services

PUBLIC COpy

FILE:

[WAC 05 228 78590]

OFFICE: California Service Center

DATE:

MAR 21 2008

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:

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 "R. Wiemann".

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 claims to be 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 director denied the application because the applicant failed to establish she was eligible for late registration.

On appeal, the applicant claims she is eligible for late registration because she had a pending asylum application.

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 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 February 5, 2006, the applicant was requested to submit evidence establishing her eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2). The applicant was also requested to submit evidence establishing her continuous physical presence in the United States from February 13, 2001, to the date of filing. The applicant did not respond.

The director determined that the applicant had failed to establish she was eligible for late registration and denied the application on April 13, 2006. On appeal, the applicant asserts she is eligible for late registration.

The applicant filed a previous application for TPS under receipt number LIN 04 148 51593. The director requested that the applicant provide additional evidence regarding inconsistencies in her applications, specifically the denial of having been married to \_\_\_\_\_ upon whose asylum application the applicant is a dependent. The applicant did not respond. The record contains an application which has been submitted by the applicant applying for adjustment of status based on her marriage to \_\_\_\_\_, despite the fact that the applicant denies this marriage. The director denied that application October 25, 2004.

Despite this blatant misrepresentation, the applicant has again filed a late registration for TPS claiming she is eligible because of a pending asylum application. As was pointed out by the director in LIN 04 148 51593 the applicant's asylum status was based on her marriage to \_\_\_\_\_. She has not provided any evidence of a pending asylum application, and it was only after an investigation revealed her prior marriage to \_\_\_\_\_ that CIS realized the marriage she now denies was the basis of her asylum application and the basis of her claim of eligibility to file a late registration for TPS. Nonetheless, the applicant denies having ever been married to \_\_\_\_\_. To *this* date the applicant has not cleared up the facts surrounding her marriage and derivative

asylum status through [REDACTED] The AAO finds that this applicant lacks credibility, and categorically rejects the assertions made on her TPS 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 TPS will be affirmed.

The applicant's attempt to obtain benefits fraudulently calls into question the applicant's other assertions in regard to her TPS eligibility, most notably her true identity.

The record contains several different names used by the applicant at various points through her application process. The applicant has submitted a passport issued in 2005 using her maiden name, despite claiming to be married to [REDACTED] in 2003. The applicant has misspelled her daughter's name on several applications ([REDACTED]), calling into question the authenticity of her claims that this person is her daughter or is even related to her. She has used at least two different birthdates (1973, 1972) and two different locations of birth in El Salvador (Ozatlan, Usulután), and claims her current husband has asylum status despite the fact that a recent marriage certificate reveals that he is from Guatemala and not El Salvador. For these reasons the evidence submitted to establish her identity is not credible.

The applicant has failed to establish her identity. In this case, the discrepancies and errors catalogued above lead the AAO to conclude that the evidence is not credible, and the application will be denied for the additional reason that the applicant has failed to establish prima facie eligibility for TPS.

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.