



U.S. Citizenship  
and Immigration  
Services

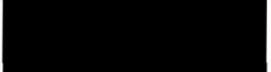
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FILE:



[EAC 07 263 71993]

OFFICE: Vermont Service Center

DATE: OCT 02 2008

IN RE:

Applicant:



APPLICATION:

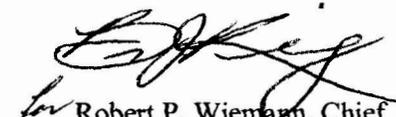
Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

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.

  
for Robert P. Wieman, 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 director denied the application because the applicant failed to establish that she is a national of a foreign state designated by the Attorney General and eligible for the granting of Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254.

The record reflects that the applicant is a citizen and national of Mexico. On appeal, counsel states that the applicant was born in Mexico to a Mexican mother and a Salvadoran father. Counsel also states that since her father is a citizen and national of El Salvador, she derived Salvadoran nationality from him at birth. According to counsel, all attempts to obtain proof of said nationality have been slowed due to the existence of administrative red tape both in Mexico and El Salvador. Counsel further claims that CIS erred in not granting the extension request to allow the applicant to obtain the needed document. It is also noted that counsel indicates on the Form I-290B, Notice of Appeal or Motion, that a brief or additional evidence will be submitted to the AAO within 30 days. On September 4, 2008, the AAO sent a facsimile transmission (FAX) to counsel requesting that a copy of the additional evidence and/or brief be sent to the AAO within five business days, along with evidence of the date it was originally filed with the AAO. On September 11, 2008, the AAO received a respond from counsel with notes/comments: "In response to your request, following please find a copy of the brief that was timely filed via Federal Express overnight service. This office is in the process of obtaining proof from FedEx of timely delivery and will forward to your office once received." On September 12, 2008, the AAO received a copy of tracking information indicating that a brief was delivered to the AAO on July 21, 2008.

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;....

Counsel reasserts on appeal that the applicant is eligible for TPS since she has timely complied with all CIS requests and did in fact establish her statutory eligibility including her Salvadoran nationality and/or citizenship. While the applicant, in this case, entered the United States without inspection, the director is correct in his findings that the applicant claimed to be a national and citizen of Mexico throughout these immigration proceedings. The nationality the applicant claimed and/or established at the time she first came into contact with the Service (now CIS) was that of Mexico. On subsequent filings before the Service, including a Form G-325 A, filed on September 23, 1998; Form I-882, Application for Suspension for Deportation or Special Rule Cancellation of Removal, filed on March 17, 2006; Form I-765, Application for Employment Authorization; and, Form I-862, Notice to Appear; her birth certificate; and her passport, the applicant continued to present herself as a Mexican. Therefore, this citizenship must be regarded as her operative nationality during these proceedings. The applicant has submitted a copy of her Mexican passport, however, the applicant has not submitted any evidence to establish that she is a citizen of El Salvador. Therefore, the record must considered as completed.

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.