U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. A3042
Washington, DC 20529

U.S. Citizenship and Immigration Services

[redacted]

FILE: [redacted] Office: CALIFORNIA SERVICE CENTER Date: OCT 26 2004

IN RE: 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: SELF-REPRESENTED

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.

Robert P. Wiemann, Director
Administrative Appeals Office

identifying data deleted to prevent clearly unwarranted invasion of personal privacy

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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 native and citizen of Costa Rica who is applying for Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254. The director determined that the applicant is not eligible for TPS because her country of nationality, Costa Rica, is not a designated foreign state for TPS.

On appeal, the applicant submits a statement and photocopies of documents previously submitted for incorporation into the record.

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

(a) Is a national, as defined in section 101(a)(21) of the Act, of a foreign 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 § 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.

The burden of proof is upon the applicant to establish that he meets the above requirements. Applicants shall submit all documentation as required in the instructions or requested by Citizenship and Immigration Services (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 this burden of proof the applicant must provide supporting documentary evidence of eligibility apart from her own statements. 8 C.F.R. § 244.9(b).

The director denied the application because the applicant is not a national of a foreign state designated for Temporary Protected Status.

On appeal, the applicant states she is eligible for TPS because she is the spouse of an alien currently eligible to be a TPS registrant. She further states that she has resided continuously in the United States since October 12, 1998, and that she was married to an alien currently eligible to be a TPS registrant prior to the initial registration period. She submits photocopies of the following documents:

1. a photocopy of a California License and Certificate of Marriage indicating that [redacted] a citizen of El Salvador, and [redacted] a citizen of Costa Rica, were married in Van Nuys, California, on November 18, 2000;

2. a photocopy of the biographic pages of the applicant's Costa Rican passport;

3. a photocopy of the page of the applicant's passport bearing her nonimmigrant B-1/B-2 visitor's visa, along with a United States admission stamp indicating the applicant was admitted to the United States on October 12, 1998; and,

3. a photocopy of an Employment Authorization Card indicating that [redacted] a citizen of El Salvador, was a TPS applicant as of March 9, 2003 (A71 640 596)

In order to be eligible for Temporary Protected Status, an alien must be a national of a foreign state designated under section 244(b) of the Act. 8 C.F.R. § 244.2(a). In this case, the applicant is a native and citizen of Costa Rica. Costa Rica is not a foreign state designated for Temporary Protected Status. The fact that the applicant is the spouse of a Salvadoran citizen who has applied for TPS does not qualify her to be a TPS registrant. Since the applicant is not a national of a foreign state currently designated for Temporary Protected Status, she is statutorily ineligible for TPS under 8 C.F.R. § 244.2(a), and the application must be denied. Consequently, the director's decision to deny the application for temporary protected status will be affirmed.

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.