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U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: FEB 03 2005

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

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 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 submits a statement and photocopies of documents previously submitted for incorporation into the record of proceeding.

As stated in 8 C.F.R. § 244.1, "register" means "to properly file, with the director, a completed application, with proper fee, for Temporary Protected Status during the registration period designated under section 244(b) of the Act."

The record reveals that the applicant did file an initial application for TPS during the initial registration period. That application was denied on October 15, 2001, because the applicant had not provided sufficient evidence to establish continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States since March 9, 2001. The applicant did not file either a motion or an appeal during the requisite timeframe.

The applicant filed a subsequent Form I-821, Application for Temporary Protected Status, on October 8, 2003. The director denied this second application because it was filed outside of the initial registration period and because the applicant had failed to establish her eligibility for filing under the provisions of late registration. Since the applicant did properly file an application during the initial registration period, the director erred in his explanation of the basis for denial. While the director found the applicant ineligible for TPS because she had failed to establish eligibility for late registration, the director's decision did not sufficiently explain the entire basis for denial.

The applicant's initial Form I-821 was properly filed on April 25, 2001. That initial application was denied by the director on October 15, 2001. Any Form I-821 application subsequently submitted by the same applicant after an initial application is filed and a decision rendered, must be considered as either a request for annual registration or as a new filing for TPS benefits.

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.

The applicant filed a subsequent Form I-821 on October 8, 2003. Since the initial application was denied on October 15, 2001, the subsequent application cannot be considered as a re-registration. Therefore, this application can only be considered as a late registration.

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 § 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.

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. On July 16, 2003, CIS extended the designation of El Salvador for TPS until March 9, 2005.

The record reveals that the applicant filed a prior Form I-821, Application for Temporary Protected Status, with Citizenship and Immigration Services (CIS) on April 25, 2001. The service center director denied the application on October 15, 2001, because the applicant had not provided sufficient evidence to establish continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States since March 9, 2001. The applicant did not appeal the denial of her application.

On August 29, 2003, CIS issued a press release reminding eligible Salvadoran individuals who have been granted TPS that they must re-register to maintain their status and employment authorization for 18 additional months, beginning on September 9, 2003 and ending on March 9, 2005. Registrants were informed that their TPS applications must be postmarked by September 15, 2003.

On October 8, 2003, the applicant filed the current application for TPS, more than two years after the expiration of the initial registration period.

To qualify for late registration, the applicant must provide evidence that during the initial registration period, he or she was either in a valid immigration status, had an application pending for relief from removal, was a parolee, or was the spouse or child of an alien currently eligible to be a TPS registrant, and had filed an application for late registration within 60 days of the expiration or termination of the conditions described in 8 C.F.R. § 244.2(f)(2).

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 director determined that the applicant had failed to establish she was eligible for late registration and denied the application on March 9, 2004.

On appeal, the applicant states:

As in [8] C.F.R. [§] 244.2(f)(1) I register timely for late initial registration. As the "Notice of Decision" indicated, I must had filed no later than *60 days* passed the deadline date which was Sept. 09, 2002. Although that deadline date had been extended to September 15, 2003, thus, the *60 day* period in which a timely filing was essential was however met because my application was received on November 17, 2002 & May 14, 2001. The *60 day* clock begins after Sept. 15, 2003, not September 9, 2003.

The applicant submits photocopies of the evidence previously submitted in an attempt to establish her qualifying continuous residence and physical presence in the United States. She also submits two Form I-797C notices

acknowledging receipt of Forms I-765, Application for Employment Authorization, on May 14, 2001 and October 27, 2002, respectively.

The initial registration period for Salvadorans ended on September 9, 2002. The applicant's initial TPS application was denied on October 15, 2001. In order to file another timely TPS application during the initial registration period, the applicant should have filed her second Form I-821 on or before September 9, 2002. As previously stated, the applicant did not file her second Form I-821 until October 8, 2003.

The applicant claims that she qualifies for late initial registration because she filed her second TPS application within 60 days of the September 15, 2003 deadline for re-registration. The press release issued by CIS on August 29, 2003, related to the required re-registration period for Salvadorans **who had already been granted TPS**. This extended period does not represent an extension of the initial registration period. Individuals who qualify for late initial registration may file their TPS applications during any subsequent designation of El Salvador for TPS; however, they must provide evidence to establish their eligibility for late initial registration. 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 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.