



U.S. Citizenship
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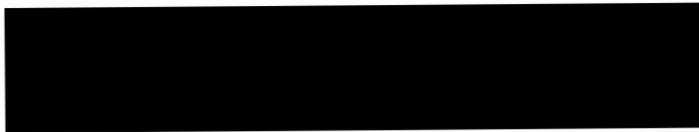
Office: California Service Center

Date: DEC 04 2006

[WAC 05 2228 78680]

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:

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.

for 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 is 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 record reveals that the applicant filed an initial TPS application on August 10, 2001, under CIS receipt number SRC 01 256 56578 and a subsequent application on September 9, 2002, under SRC 02 275 54092. The director denied both applications on March 19, 2004, because the applicant failed to respond to a request for evidence issued by the director on December 10, 2003, to submit a photo identification within 90 days. The director, therefore, considered the applications abandoned. 8 C.F.R. § 103.2(b)(13). A denial due to abandonment may not be appealed; however, an applicant may file a motion to reopen under 8 C.F.R. § 103.5 within 30 days of the denial decision. The record reflects that the applicant filed a motion to reopen on May 21, 2004. With the motion to reconsider, the applicant submitted a Cedula photo identification. The director, however, rejected the motion as untimely filed.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on May 16, 2005, under CIS receipt number WAC 05 228 78680, and indicated that she was filing a re-registration application. The director denied that application on May 3, 2006, because the applicant's initial TPS application had been denied as the applicant did not establish prima facie eligibility for TPS.

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.

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

It is noted that the director's decision does not explore 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 Salvadorans was from March 9, 2001 to September 9, 2002. The record reveals that the applicant filed the current 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 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 appeal, the applicant states that she is eligible for late initial registration for TPS as the spouse of a TPS recipient. In support of her appeal, the applicant submitted an Employment Authorization Document (EAD) for her putative spouse, a marriage certificate (in Spanish) and an English translation, indicating a marriage to on March 16, 1988; and an English translation of her listing as her husband.

It is noted, however, that although the applicant claimed that she was married to the TPS registrant on March 16, 1988, the record reveals that the applicant listed her marital status as "single" on her initial TPS application, Form I-821, filed on August 10, 2001. The applicant also listed her marital status as "single" on her re-registration application, filed on September 9, 2002. On both of these applications, in Part 3, under Information about your spouse and children (if any), the applicant inserted N/A where the application called for the spouse information. However, on her TPS application filed on May 16, 2005, the applicant listed her marital status as "married". It is noted that stated on his initial and subsequent TPS applications that he was married, listed the applicant as his spouse.

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 applicant has failed to submit any objective evidence to explain or justify

the discrepancies within her TPS applications and her between her applications and her marriage certificate and her Cedula. Therefore, the reliability of the remaining evidence offered by the applicant is suspect and it must be concluded that the applicant has failed to establish her marital status as the spouse of a TPS registrant. Therefore, the application will also be denied for these reasons.

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.

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.