



U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
[WAC 05 214 76459]

Office: CALIFORNIA SERVICE CENTER

Date: **JAN 05 2007**

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.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, California Service Center (CSC), and is now before the Administrative Appeals Office (AAO) 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 record reveals that the applicant filed a first Form I-821, Application for Temporary Protected Status, with the Vermont Service Center (VSC) on August 10, 2001, during the initial registration period (EAC 01 246 56886 relates). On May 5, 2003, that application was denied due to abandonment. Since the application was denied due to abandonment there was no appeal available; however, the applicant was advised that she could file a motion to reopen within 30 days from the date of the denial. The applicant did not file a motion to reopen during the requisite time period.

The applicant filed this Form I-821 on May 2, 2005. The director of the CSC denied the application on July 26, 2005, because the applicant's prior TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS or renewal. The applicant filed her appeal from that decision on August 15, 2005.

If the applicant is filing an application for 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. If the applicant is applying to renew her temporary treatment benefits, she must have a pending TPS application.

In this case, the applicant had not previously been granted TPS and she no longer had a pending application. Therefore, she was not eligible to re-register for TPS or to renew her temporary treatment benefits. Consequently, the director's decision to deny the application will be affirmed.

On appeal, counsel for the applicant states that the applicant was not filing an application for re-registration or renewal of temporary treatment benefits; rather, she was filing an application for late initial 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 parole; 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 Salvadorans was from March 9, 2001, through September 9, 2002. As previously discussed, the applicant filed her current application with Citizenship and Immigration Services (CIS) on May 2, 2005.

To qualify for late registration, the applicant must provide evidence that during the initial registration period he or 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).

The record reflects that the applicant and [REDACTED], a TPS registrant, were married in El Salvador on February 6, 1998. Therefore, the applicant is eligible to file a late application for TPS under the provisions of 8 C.F.R. § 244.2(f)(2)(iv). However, the late registration provisions do not relax the other requirements for TPS eligibility.

The applicant claims that she has lived in the United States since August 6, 2000. However, a review of the alien registration file relating to the applicant's spouse reveals that at the time he filed his initial Form I-821 on April 1, 2002, he indicated that the applicant was residing in El Salvador. At the time of filing subsequent applications for re-registration or renewal of temporary treatment benefits, on September 11, 2002, and September 4, 2003, the spouse also indicated that the applicant was residing in El Salvador. It was not until February 10, 2005, when filing his most recent application for annual re-registration or renewal of temporary treatment benefits that the spouse claimed that the applicant was residing with him in the United States. These discrepancies in the applicant's submissions have not been explained and call into question the applicant's ability to document the requirements under the statute and regulations. Doubt cast on any aspect of the evidence as submitted may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. Further, it is incumbent on the applicant to resolve any inconsistencies in the record by independent objective evidence; any 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. (Comm. 1988).

Based on a review of the record, the applicant has failed to sufficiently establish that she satisfies the continuous residence and continuous physical presence requirements described in 8 C.F.R. §§ 244.2(b) and (c). Therefore, the application must also be denied for these reasons.

It is noted that, as a result of being fingerprinted in connection with this application, CIS received a report from the Federal Bureau of Investigation (FBI) indicating that the applicant was removed from the United States at Harlingen, Texas, on October 9, 2004. In any future proceedings before CIS, the applicant should submit further details regarding her removal.

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.