



U.S. Citizenship
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FILE:

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Office: CALIFORNIA SERVICE CENTER

Date: JAN 30 2007

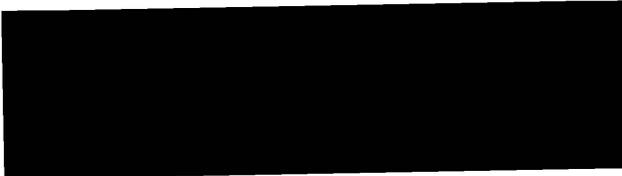
IN RE:

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, and is now before the Administrative Appeals Office 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 Form I-821, Application for Temporary Protected Status on February 19, 2002 under CIS receipt number SRC 02 107 53413. The application was denied by the Director, Texas Service Center, on January 6, 2004 because the applicant failed to submit documents in response to a Request for Additional Information and, therefore, had abandoned his application.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on April 30, 2005 and indicated that he was re-registering for TPS.

The Director denied the re-registration application because the applicant's initial TPS application had been denied and the applicant was therefore not eligible to apply for re-registration under 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.

On appeal, counsel argues that the applicant's original TPS application was never properly processed because the Notice of Intent to Deny requesting the applicant to submit a photo identification was mailed to the wrong address at [REDACTED] on February 7, 2003. A review of the record, however, shows that a subsequent Request for Additional Information was mailed to the applicant on September 17, 2003 to his correct address at [REDACTED]. The applicant's failure to respond to this request was the reason cited for the Notice of Decision to Deny issued by the director on January 6, 2004.

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

Finally, counsel argues that the current I-821 application should be treated not as a re-registration, but rather as a new application.

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 Salvador 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 April 30, 2005.

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

Counsel submits evidence of what he claims to be proof of TPS registration of applicant's father as well as applicant's birth certificate under Exhibit 6 in an attempt to establish that he is eligible for late registration. However, the document submitted under Exhibit 6 is an appointment notice for one [REDACTED] to have his fingerprints taken at the Application Support Center in Dallas, Texas. This document is not sufficient proof that the applicant is eligible for late initial registration because it does not establish that his father was granted TPS. Assuming arguendo, that applicant's father was indeed eligible to register for TPS during the initial registration period, the applicant still needs to establish that he 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 8 C.F.R. § 244.2.

A child is defined as an unmarried son or daughter under the age of 21. 101(b)(1) INA.

The record shows that the applicant is married. Furthermore, the applicant was born on October 28, 1979 and thus turned 21 on October 28, 2000. To be eligible for late initial registration, the applicant would have had to have filed his late initial registration during the sixty-day period after October 28, 2000. The record reveals that the applicant filed the current I-821 application with CIS on April 30, 2005.

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.