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U.S. Department of Homeland Security  
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U.S. Citizenship  
and Immigration  
Services

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FILE:



Office: California Service Center Date:

**JUL 05 2007**

[WAC 05 221 73922]

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 a late initial TPS application on May 9, 2005, under CIS receipt number WAC 05 221 73922. The director denied the application on September 12, 2006, because the applicant failed to establish eligibility for late initial registration, and his nationality and identity.

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

- (a) Is a national of a 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 8 C.F.R. § 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. The record reveals that the applicant filed his initial application with Citizenship and Immigration Services (CIS) on May 9, 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).

With his TPS application, the applicant submitted his El Salvadoran birth certificate (in Spanish) and an English translation, his marriage certificate, and a letter from his wife stating that she is a TPS registrant, and thereby eligible for late registration as his spouse is a TPS recipient.

On appeal, the applicant re-asserts eligibility for TPS and states that he has submitted all the evidence to establish that he is of El Salvadoran nationality. The applicant does not submit additional evidence on appeal.

On July 21, 2006, the applicant was requested to submit evidence establishing his eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2). The applicant was also requested to submit evidence establishing his nationality and identity, and his qualifying residence and physical presence in the United States. The applicant, in response, provided a copy of:

1. His El Salvadoran birth certificate (in Spanish) and an English translation;
2. His marriage certificate;
3. The biographic page of his El Salvador national identification card;
4. 7 money transfer receipts; an unclear merchandise receipt;
5. An Automobile Insurance Premium Notice, showing coverage during the period February 5, 2001 through September 4, 2001;
6. A Certificate of Insurance, showing coverage during the period February 10, 2002 through February 10, 2003;
7. 2 medical appointment notices for an appointment in February 2002, and in June 2003; and,
8. A Certificate of Credit Property Insurance, with an effective date of March 19, 2002.

The first issue in this proceeding is whether the applicant has established his nationality and identity. The applicant submitted his El Salvador birth certificate with an English translation, accompanied by a photo identification which is sufficient to establish the applicant's nationality and identity as required by 8 C.F.R. § 244.9(a)(1). Therefore, the director's decision to deny the application for this reason is withdrawn.

The next issue in this proceeding is whether the applicant has established eligibility for late initial registration for TPS.

The evidence of record does not mitigate the applicant's failure to file his Form I-821, Application for Temporary Protected Status, within the initial registration period. While the regulations may allow spouse of aliens who are TPS eligible to file their applications after the initial registration period had closed, these regulations do not relax the requirements of eligibility for TPS.

In order for an applicant to establish eligibility for late initial registration as the spouse of a TPS recipient, the marriage must have taken place before or within the initial registration period from March 9, 2001, through September 9, 2002. The applicant furnished a marriage certificate which indicates that his marriage took place on December 21, 2002. It is noted, however, that the applicant's spouse stated on her initial TPS application filed on July 11, 2001, that she was married but did not provide a name for her spouse, and states her status as single on her current TPS application filed on May 9, 2005. These discrepancies call into question whether the applicant and his "spouse" are still married at the time the applicant filed this TPS application. 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 pertaining to his marital status in the record. 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 his marital status to a TPS registrant. The applicant has, therefore, not submitted any evidence to establish that he 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 TPS will be affirmed.

An alien applying for TPS 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.