



U.S. Citizenship
and Immigration
Services

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FILE:



OFFICE: CALIFORNIA SERVICE CENTER

DATE: JUN 25 2007

[WAC 05 224 72267]

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 claims to be 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 record reveals that the applicant filed a TPS application during the initial registration period on September 29, 2003, under Citizenship and Immigration Services (CIS) receipt number WAC 04 006 53530. The director denied that application on February 27, 2004, because the applicant had failed to establish that she was eligible for late initial registration. On March 29, 2004, the applicant filed an appeal from the denial decision. The AAO noted that although the applicant stated that she was eligible for late registration because she is married to a Salvadoran citizen who was currently eligible to be a TPS registrant, the applicant had failed to provide any evidence that she was married to the TPS registrant during the initial registration period. The AAO further noted that the applicant had not provided proof of identity, and also evidence of continuous residence in the United States since February 13, 2001, and continuous physical presence since March 9, 2001. The AAO, therefore, dismissed the appeal on November 26, 2004.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on May 12, 2005, and indicated that she was re-registering for TPS.

The director denied the re-registration application on August 16, 2005, because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS.

On appeal, the applicant asserts that she is eligible for late registration because her husband had been granted TPS. She resubmits a copy of an Employment Authorization Card issued to [REDACTED] on September 25, 2002, under category C19.

The applicant is filing the current TPS application as a re-registration; therefore, 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 applicant submitted with her re-registration application a copy of a marriage certificate indicating that the applicant and [REDACTED] were married in El Salvador on April 31, 1996. While regulations may allow spouses of aliens who are TPS-eligible to file their applications after the initial registration period had closed, these regulations do not relax the requirements for eligibility for TPS. A review of [REDACTED]'s file (number [REDACTED]) reveals that [REDACTED] was granted TPS on November 14, 2003. It is also noted that [REDACTED] indicated on his initial TPS application filed on July 5, 2002, and subsequent TPS application filed on July 28, 2003, that his spouse, [REDACTED] (the applicant), was residing in Ahuachapan, El Salvador.

Based on the information contained in [REDACTED]'s file, it is determined that the applicant was not present in the United States during the period required to establish eligibility. Therefore, she could not have met the criteria for continuous residence in the United States since February 13, 2001, and continuous physical presence since March 9, 2001.

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, in fact, lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988).

The applicant has failed to establish that she has met the criteria for continuous residence in the United States since February 13, 2001, and continuous physical presence since March 9, 2001, as described in 8 C.F.R. § 244.2(b) and (c). Therefore, the application will also be denied for these reasons.

Additionally, the applicant has not overcome the AAO's findings that the applicant had failed to establish her nationality and identity as required by 8 C.F.R. § 244.9(a)(1). Therefore, the application also will 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.