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**U.S. Citizenship
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FILE:



OFFICE: California Service Center

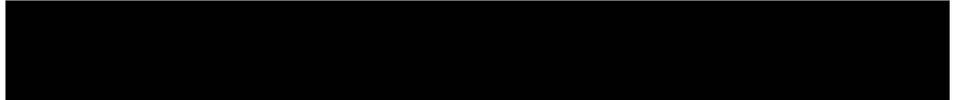
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[WAC 05211 75448]

INRE:

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). It is now on appeal before the Administrative Appeals Office (AAO). 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 director denied the application on the ground that the applicant failed to register for TPS in a timely manner.

On appeal, the applicant claims that she is eligible for late registration on three different grounds.

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 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.

£1 Salvadoran nationals applying for TPS must demonstrate continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States since March 9, 2001. The initial registration period for £1 Salvadorans was from March 9, 2001, through September 9, 2002. Subsequent extensions of the TPS designation have been granted, with the latest extension valid until March 9, 2009, upon the applicant's re-registration during the requisite time period.

The record reveals that the applicant filed her initial Form 1-821, Application for Temporary Protected Status, with Citizenship and Immigration Services (CIS) on February 28, 2005 - two and one-half years after the close of the initial registration period. To qualify for late registration, the applicant must provide evidence that during the initial registration period she met at least one of the conditions described in 8 C.F.R. § 244.2(f)(2) above and filed her application within the 60-day window prescribed in 8 C.F.R. § 244.2(g).

On May 18, 2006, the Director, CSC, denied the application on the ground that it was not filed during the initial registration period and did not qualify for late registration because it was not filed within 60 days of the denial of the applicant's L-2 status on June 5, 2002.

On appeal the applicant asserts that she is eligible for late TPS registration under three different criteria: 8 C.F.R. § 244.2(f)(2)(i) – because she was in valid nonimmigrant status during the initial registration period; 8 C.F.R. § 244.2(f)(2)(ii) - because her appeal of the decision denying her L-2 status in June 2002 was not decided until June 28, 2005; which was after she filed her TPS application; and 8 C.F.R. § 244.2(f)(2)(iv) - because her father is a currently eligible TPS registrant who has been approved for TPS.

The record indicates that the applicant entered the United States with a B-1/B-2 tourist visa on November 9, 2000. On April 30, 2001, the applicant's mother, applied for a change of status to L-2 nonimmigrant on behalf of herself and her three children, while the applicant's father, sought L-1 status as the beneficiary of an L-1 nonimmigrant petition. The applicant, her siblings, and her mother were approved for L-2 status on June 29, 2001, valid until May 31, 2002. On May 6, 2002, while the applicant's father sought an extension of his L-1 status, the applicant's mother and three children applied for extensions of their L-2 status. The extension applications were denied by the Texas Service Center (TSC) on June 5, 2002. The L-1 petitioner filed a motion to reopen/reconsider, which was denied by the TSC on September 6, 2002. An appeal filed by the L-1 petitioner on October 3, 2002, was ultimately dismissed by the AAO on June 28, 2005.

In the meantime, on February 28, 2005, the applicant's father filed a Form 1-821, Application for Temporary Protected Status, with the California Service Center. That application was approved on April 12, 2006, with a

validity period of March 9, 2005 - September 9, 2006. The applicant's father was subsequently granted a TPS extension through September 9, 2007.

The applicant's argument that she qualifies for late TPS application under 8 C.F.R. § 244.2(f)(2)(i) is without merit. While the applicant was a nonimmigrant during the initial registration period, by virtue of the L-2 status she was granted from June 29, 2001 to May 31, 2002, she lost her nonimmigrant status when the TSC denied the extension petition on June 5, 2002. Though the L-1 petitioner filed a motion to reopen/reconsider and later an appeal, the applicant did not retain L-2 nonimmigrant status during those proceedings. Since the applicant's qualifying condition under 8 C.F.R. § 244.2(f)(2)(i) was terminated on June 5, 2002 - more than three months before the end of the initial registration period on September 9, 2002 - the 60-day filing period prescribed in 8 C.F.R. § 244.2(g) did not apply in this case. Accordingly, the applicant could not have been eligible for late registration under 8 C.F.R. § 244.2(f)(2)(i).

The applicant's argument that she qualifies for late TPS registration under 8 C.F.R. § 244.2(f)(2)(ii) is also without merit. While the regulation specifies that an alien could be eligible for late TPS registration if he or she had an application for "*change of status*" or "*adjustment of status*" that was pending or under review or appeal during the initial registration period [emphasis added], the applicant in this case was the beneficiary of an application for *extension* of her previously granted L-2 status, which was denied during the initial registration period, subject to further review pursuant to a motion, and then appealed. An extension of status application is different from a change of status or adjustment of status application, and is not identified in 8 C.F.R. § 244.2(f)(2)(ii) as a type of application by which an alien can qualify for late TPS application.

Nor does the applicant qualify for late TPS registration under 8 C.F.R. § 244.2(f)(2)(iv), as the child of an alien currently eligible to be a TPS registrant, because CIS records do not show that the applicant's father was eligible for late TPS registration at the time he applied on May 6, 2005. The applicant's father, _

lost his L-1 nonimmigrant status when the L-1 extension petition was denied by the Texas Service Center on June 5, 2002. Though the L-1 petitioner filed a motion to reopen/reconsider and later an appeal, which was not dismissed by the AAO until June 2005, the applicant's father did not retain L-1 nonimmigrant status during those three years of proceedings. Since his L-1 status terminated on June 5, 2002 - more than three months before the end of the initial registration period on September 9, 2002 - the 60-day filing period prescribed in 8 C.F.R. § 244.2(g) did not apply in his case. Accordingly, the applicant's father should have filed his TPS application by the close of the initial registration period on September 9, 2002. He did not do so, but was subsequently granted TPS by the California Service Center (in April 2006) based on a late application filed in May 2005. Since the record does not show that the applicant's father was eligible for late TPS registration, the CSC's ruling was in error. Consequently, the applicant is not the child "of an alien currently eligible to be a TPS registrant," as required for the applicant to qualify for late TPS registration under 8 C.F.R. § 244.2(f)(2)(iv).

Based on the foregoing analysis, the AAO concludes that the applicant is not eligible for late TPS registration under 8 C.F.R. § 244.2(f)(2). 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 that burden.

ORDER: The appeal is dismissed.