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U.S. Citizenship
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Services

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FILE:

[REDACTED]
[LIN 03 273 50186]

Office: NEBRASKA SERVICE CENTER

Date: JUN 29 2005

IN RE:

Applicant:

[REDACTED]

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.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Nebraska Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The applicant is a native and citizen of El Salvador who is applying for 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 because the applicant failed to establish that she was eligible for late registration.

On appeal, the applicant submits a statement and additional evidence.

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

- (a) Is a national, as defined in section 101(a)(21) of the Act, of a foreign 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 TPS 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 Salvadorans must demonstrate that they have continuously resided in the United States since February 13, 2001, and that they have been continuously physically present 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 a prior Form I-821, Application for Temporary Protected Status, on November 18, 2002. That application was denied by the service center director on July 11, 2003, because the application was filed after the expiration of the initial registration period, and the applicant had not provided any evidence to establish her eligibility for late initial registration. The applicant filed the current application with Citizenship and Immigration Services (CIS) on September 16, 2003.

To qualify for late registration, the applicant must provide evidence that during the initial registration period, she was either in a valid immigration status, had an application pending for relief from removal, was a parolee, or was the spouse or child of an alien currently eligible to be a TPS registrant, and she had filed an application for late registration within 60 days of the expiration or termination of the conditions described in 8 C.F.R. § 244.2(f)(2).

The burden of proof is upon the applicant to establish that 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 her burden of proof, the applicant must provide supporting documentary evidence of eligibility apart from her own statements. 8 C.F.R. § 244.9(b).

On October 15, 2003, the applicant was requested to submit evidence establishing her 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 her qualifying continuous residence and continuous physical presence in the United States. The applicant, in response, provided documentation relating to her residence and physical presence in the United States.

The service center director determined that the applicant had failed to establish she was eligible for late registration and denied the application on December 17, 2003.

On appeal, the applicant states that she has been helped by three different attorneys. The applicant previously stated in a letter dated September 13, 2003, :

I filed my first TPS application in the summer of 2001 with the law office of [REDACTED] [REDACTED] paid them \$465. I never received any receipt notices from INS, nor did I get an Employment Authorization Card from that application. When I went back to the attorney to ask why I did not receive any correspondence, his wife started yelling at me and told me she

had sent me everything, and that it was not her fault if INS did not send me anything. I asked her for copies of what she had sent to you, but she would not give me any documents from my file. She promised she would send INS a letter telling you that I had in fact applied on time, and asking you to continue processing my case, but I believe she never did anything. She had my current address and telephone number.

Since their office had given me such bad treatment, I went to a different lawyer to re-register for TPS, as the news media were announcing that everyone should seek legal help, even if their first application had not resulted in a work permit. I contracted the attorney Angel Luis Ortiz for \$475 to renew my TPS. He must have done a better job, because he at least sent me copies of Receipt Notices from your office. . . . He later called me to tell me that the renewal was denied due to filing late, and that more evidence was needed from 2000 and 2001. I gave him a W-2 and my State Bureau of Motor Vehicles history. I was scheduled to my fingerprinting Jan. 14, 2003, and I kept that appointment.

When El Salvador was authorized an extension, TPS, I went to the office of a forms preparer, and she helped me fill out the forms to renew my TPS. However, I am expecting that renewal to be denied, as well. I have paid four times now. . . to try to maintain legal status in the U.S., and spent over \$1000 trying to comply with the law, and I have never received a work permit or valid Social Security Number.

The applicant's statements are acknowledged; however, the fact remains that the current application was filed after the expiration of the initial registration period. The applicant has not submitted any evidence to establish that she has met any of the other criteria for late registration described in 8 C.F.R. § 244.2(f)(2). Consequently, the director's decision to deny the application for temporary protected status will be affirmed.

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.