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MM

MAR 22 2006

FILE:

[REDACTED]

Office: CALIFORNIA SERVICE CENTER

Date:

[WAC 05 157 70358]

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, 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 applicant filed her initial TPS application during the initial registration period under Citizenship and Immigration Services (CIS) receipt number WAC 01 167 50092. The director denied that application on August 17, 2004, due to abandonment because the applicant failed to appear to be fingerprinted on March 23, 2004, as scheduled, or request that her fingerprint appointment be re-scheduled. The director informed the applicant that there is no appeal from a denial due to abandonment, but she could file a request to reopen the matter within 30 days of the date of the denial decision. The denial decision was mailed to the applicant at her address of record, but was returned to CIS as undeliverable mail. The applicant did not file a motion to reopen the denial decision.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on March 6, 2005, and indicated that she was re-registering for TPS or renewing her temporary treatment benefits.

The director denied the application on July 27, 2005, because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration or renewal of her temporary treatment benefits.

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. If an applicant is applying for renewal of temporary treatment benefits, he or she must have a pending TPS application.

In this case, the applicant has not previously been granted TPS. Therefore, she is not eligible to re-register for TPS or to renew her temporary treatment benefits. Consequently, the director's decision to deny the application will be affirmed.

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) (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.

The initial registration period for Salvadorans was from March 9, 2001 through September 9, 2002. The record reveals that the applicant filed the current TPS application with CIS on March 6, 2005.

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

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). The applicant has also failed to establish her qualifying continuous residence and continuous physical presence in the United States during the requisite periods as described at 8 C.F.R. §§ 244.2(b) and (c).

It is noted that the applicant applied for admission to the United States on March 15, 2000, at the Paso del Norte Port of Entry presenting a valid Form I-586, Nonresident Alien border Crossing Card, bearing the name [REDACTED] CIS registration number [REDACTED]. Under further examination, the applicant admitted in a sworn statement before Immigration Officers that she was not the person to whom the border crossing card had been issued. She stated that her true and correct name was [REDACTED] and that she was a native and citizen of Mexico and her parents were natives and citizens of Mexico. The applicant was found to be inadmissible to the United States under 212(a)(6)(c)(i) of the Act as an alien who attempted entry into the United States through fraud and was expeditiously removed from the United States to Mexico on the

same day, March 15, 2000. The applicant now claims on her initial and current TPS applications to be a native and citizen of El Salvador. She has submitted a photocopy of an extract of a Salvadoran birth record, but she has not submitted an official photo identification card to corroborate her claim to be a native and citizen of El Salvador. The applicant has not provided any explanation for this contradiction in her claimed identity and nationality. 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. Further, it is incumbent on 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. (Comm. 1988). In view of the foregoing, it is concluded that the applicant has also failed to establish her identity and nationality as described at 8 C.F.R. § 244.9(a)(1). Therefore, the application also must be denied for the reasons discussed above.

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.