

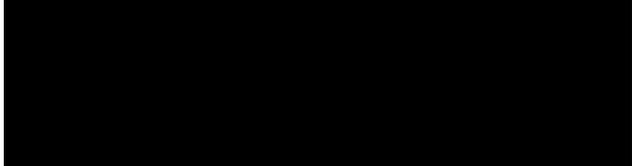


U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED] OFFICE: CALIFORNIA SERVICE CENTER DATE: NOV 06 2006
[WAC 03 039 52397]

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, reopened, and denied again 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 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 director initially denied the application on September 24, 2004, because the applicant failed to appear for her fingerprint appointment or request that her fingerprint appointment be rescheduled.

On October 21, 2004, the applicant filed a motion to reopen the case. On motion, the applicant stated that she appeared for her fingerprint appointment as scheduled, but the official was not able to obtain a satisfactory set of fingerprints. She requested another opportunity to be fingerprinted.

On October 26, 2004, the director reopened the case and provided the applicant with another opportunity to be fingerprinted. The applicant appeared for her fingerprint appointment as scheduled, and no criminal record was found.

The director denied the application again on February 28, 2005, because the applicant failed to establish she was eligible for late registration.

On appeal, the applicant submits additional evidence.

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 her initial TPS application with Citizenship and Immigration Services (CIS) on September 17, 2002.

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).

On January 12, 2005, 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, in response, submitted the following:

1. photocopies of two United States Postal Service (USPS) money order receipts payable to the Immigration and Naturalization Service (INS), now CIS, issued on March 19, 2002;
2. a photocopy of a USPS Form 3811, Domestic Return Receipt, indicating that the California Service Center received mail from the applicant on September 17, 2002; and,
3. a photocopy of a USPS Form 3811 indicating the California Service Center received mail from the applicant on November 19, 2002.

The director determined that the applicant had failed to establish she was eligible for late registration and denied the application on February 28, 2005.

On appeal, the applicant submits the following relevant evidence:

4. copies of Nos. 2 and 3 above;
5. photocopies of notices from the California Service Center dated March 28, 2002, rejecting the applicant's Form I-821, Application for Temporary Protected Status, and her Form I-765, Application for Employment Authorization, because she had not submitted the applications together with the required filing fees;
7. photocopies of notices rejecting the Form I-765 and the Form I-821 submitted by [REDACTED] because he had not submitted it with the application forms together with the required filing fees; and,
8. a photocopy of a California birth certificate indicating that a child was born to the applicant and [REDACTED] on January 2, 1997.

The record reveals that the applicant attempted to file her Form I-821 on March 28, 2002, during the initial registration period, but the application was rejected and returned to her because she had not submitted the Form I-821 with the Form I-765 and the full and correct fees. The applicant did not re-submit both applications with the full and correct fees until September 17, 2002, a week after the expiration of the initial registration period for Salvadorans. This date is confirmed by the photocopied domestic return receipt indicating receipt of mail from the applicant at the California Service Center on September 17, 2002. Therefore, the applicant's assertion that she filed her Form I-821 during the initial registration period cannot be accepted.

With regard to the correspondence addressed to [REDACTED] and the birth certificate relating to the birth of her child with Mr. [REDACTED] it appears that the applicant may also be attempting to claim that she qualifies for late initial registration as the spouse of an alien who was currently eligible to be a TPS registrant during the initial period; however, she has not submitted any evidence to establish that Mr. [REDACTED] was a TPS registrant during the initial registration period, or that she and Mr. [REDACTED] were married during the initial registration period. Therefore, the applicant cannot qualify for late initial registration on this basis. 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 TPS will be affirmed.

Beyond the decision of the director, the applicant has not submitted sufficient evidence to establish continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States since March 9, 2001, as described at 8 C.F.R. §§ 244.2(b) and (c). Therefore, the application also must be denied for these reasons.

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 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.