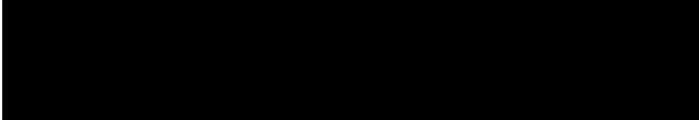




U.S. Citizenship
and Immigration
Services

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prevent clearly unwarranted
invasion of personal privacy



FILE:



Office: California Service Center

Date: APR 30 2007

[WAC 06 066 70248]

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 (AAO) on appeal. 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 record reveals that the applicant filed a late initial TPS application on December 5, 2005, under CIS receipt number WAC 06 066 70248. The director denied the application on May 24, 2006, because the applicant failed to establish his eligibility for late initial registration for TPS. The director noted that the applicant's spouse's [REDACTED] TPS application had been denied, and therefore, the applicant was ineligible to file a late TPS application as the spouse of a TPS registrant.

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) (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 El Salvadorans was from March 9, 2001 to September 9, 2002. The record reveals that the applicant filed the current application with Citizenship and Immigration Services (CIS) December 5, 2005.

To qualify for late registration, the applicant must provide evidence that during the initial registration period he 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 he or 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 his or her burden of proof, the applicant must provide supporting documentary evidence of eligibility apart from his or her own statements. 8 C.F.R. § 244.9(b).

On appeal, the applicant reasserts eligibility for late registration for TPS as the spouse of a TPS registrant. The applicant does not submit any additional evidence on appeal.

As noted by the director, the applicant's spouse's TPS application had been denied; the record of proceedings reveals that her TPS application was denied on September 29, 2004. Therefore, as determined by the director, the applicant is ineligible to file a late TPS application as the spouse of a TPS registrant.

Furthermore, it is also noted that the applicant's claimed marriage to [REDACTED] has not been established. Although the applicant claimed that he was married to [REDACTED] on July 8, 1997, in El Salvador, a review of the A-File for [REDACTED] reveals that she listed her marital status as "single" on her initial TPS application, Form I-821, filed on September 5, 2002; and, on her Form I-765, Application for Employment Authorization, filed in 2002. On both of these TPS applications, in Part 3, under "Information about your spouse and children (if any)," [REDACTED] inserted N/A where the application called for the spouse information. Also, on both of these applications [REDACTED] indicates that she last entered the United States in April 1991. This casts doubt on whether the applicant and [REDACTED] were married in December 2000, in El Salvador, as the applicant claims. 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 lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988). The applicant has failed to submit any objective evidence to explain or justify the discrepancies within his TPS application. Therefore, the reliability of the remaining evidence offered by the applicant is suspect and it must be concluded that the applicant has failed to establish his marital status as the spouse of a TPS registrant. Accordingly, the application will also be denied for these reasons.

It is noted that the applicant states that he had never been arrested; however, in response to the Notice of Intent to Withdraw, he submitted a copy of Form SHO 3X3, pertaining to bail \$751.00; Citation/Case No. [REDACTED] Court Warrant No. [REDACTED] issued March 26, 2002; Warrant File No. [REDACTED]; assigned to the Orange County Sheriff's Department. The applicant's name does not appear on the form, and it is not clear how it pertains to the applicant. CIS must address this arrest in any future proceedings.

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). Consequently, the director's decision to deny the application must 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.