



U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
[WAC 05 243 72719]

Office: CALIFORNIA SERVICE CENTER

Date: AUG 24 2007

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 California Service Center. 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, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant claims to be 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.

Although a Form G-28, Notice of Entry of Appearance as Attorney or Representative, has been submitted, the person signing the document is not authorized under the regulations at 8 C.F.R. § 292.1 or 292.2 to represent the applicant. Therefore, she shall be considered as self-represented and the decision shall only be furnished to her.

The applicant filed an initial Form I-821, Application for Temporary Protected Status, under receipt number EAC 03 242 53806 after the initial registration period had closed. The Director, Vermont Service Center, denied that application on January 21, 2005, after determining that the applicant had failed to establish she was eligible for late initial registration and because the applicant had not met the continuous residence and continuous physical presence requirements for TPS. After a review of the record, the Chief, AAO, concurs with the director's denial decision.

The applicant filed a subsequent Form I-821 on May 31, 2005.

The director denied the re-registration application because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS.

If an alien is filing a re-registration application, 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.

The applicant has not previously been granted TPS. Therefore, she is not eligible to re-register for TPS. 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) (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 Salvador was from March 9, 2001 through September 9, 2002. The record reveals that the applicant filed her initial application on January 21, 2005, and the current application with CIS on May 31, 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.

On appeal the applicant states that she is entitled to late initial filing because her mother named [REDACTED] under File Number [REDACTED] has been granted TPS. Review of her purported mother's file reveals that when [REDACTED] filed her initial Form I-821 on April 30, 2001, she claimed that she had no children. On a subsequent Form I-821 that she signed on July 13, 2002, she stated that she was the mother of [REDACTED]. However, the birth date given was different than that shown on the applicant's birth certificate. On a subsequent I-821 that she signed on July 25, 2003, she again failed to list the applicant as her child. It is noted that the last Form I-821 that she submitted filed on January 20, 2005, listed the applicant, again with the variant birth date, along with a first time listing for another child named [REDACTED] with a birth date of September 12, 1979. It is determined that 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). Therefore, the application also shall be denied for this reason.

Furthermore, the applicant has provided insufficient evidence to establish her continuous residence and continuous physical presence during the required time period. 8 C.F.R. § 244.2 (b) and (c).

Although not addressed by the director, the applicant has provided insufficient evidence to establish that she is a national of El Salvador. The applicant has submitted a copy of her birth certificate accompanied by a translation. However, under Section 244(a)(1) of the Immigration and Nationality Act, the applicant must establish she is a national of El Salvador, or if she has no nationality, that she is a person who last habitually resided in El Salvador. The record does not contain any national identification documentation such as a

passport or national identity document or his affidavit showing proof of her unsuccessful efforts to obtain such identity documents. 8 C.F.R. 244.9(a)(1).

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 cited 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.