



U.S. Citizenship
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Services

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FILE: [REDACTED]
[WAC 05 229 75940]

OFFICE: CALIFORNIA SERVICE CENTER DATE: **JAN 19 2007**

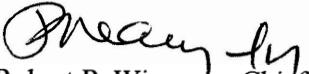
IN RE: Applicant: [REDACTED]

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 office that originally decided your case. 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 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 denied the application because the applicant failed to establish he was eligible for late initial 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 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 his initial TPS application with Citizenship and Immigration Services (CIS) on May 17, 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 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 burden of proof, the applicant must provide supporting documentary evidence of eligibility apart from his own statements. 8 C.F.R. § 244.9(b).

On February 21, 2006, the applicant was requested to submit evidence establishing his eligibility for late initial registration as set forth in 8 C.F.R. § 244.2(f)(2). The applicant was also requested to submit evidence establishing his qualifying continuous residence and continuous physical presence in the United States during the requisite periods. Finally, the applicant was requested to provide the final court disposition of his arrest in Los Angeles, California, on one count of kidnap during carjacking in violation of section 209.5 PC, a felony. The applicant, in response, provided evidence relating to his residence and physical presence in the United States and a photocopy of a Los Angeles Police Department Certificate of Release indicating that the applicant was released from custody without being taken before a magistrate because the arresting officer believed there were insufficient grounds for making a criminal complaint against him. However, he did not submit any evidence to establish his eligibility for late initial registration.

The director determined that the applicant had failed to establish he was eligible for late registration and denied the application on May 10, 2006.

On appeal, the applicant states that he qualifies for late initial registration because his wife "is member of TPS." He submits evidence to establish his identity and nationality, but he does not submit any additional evidence to establish his eligibility for late initial registration.

The applicant previously submitted the following documents with the Form I-821, Application for Temporary Protected Status:

1. a photocopy of a purported Salvadoran marriage certificate with English translation indicating that [REDACTED] and [REDACTED] were married in [REDACTED] La Union, El Salvador, on May 14, 2002;
2. a "fill-in-the-blank" letter from [REDACTED] CIS registration number [REDACTED] stating that she wishes to include her husband as a dependent in her TPS application.

These documents are not sufficient to establish the applicant's eligibility for late initial registration. Pursuant to 8 C.F.R. § 103.2(b)(3), any document containing a foreign language submitted to CIS must be accompanied by a full English language translation that the translator has certified as complete and accurate, and by the translator's certification that he or she is competent to translate from the foreign language into English. The English translation of the Salvadoran marriage certificate submitted by the applicant does not comply with these requirements; therefore, it cannot be considered in the rendering of this decision.

It is noted that CIS computer records reveal that [REDACTED], CIS registration number [REDACTED] filed an initial TPS application with the California Service Center on June 2, 2001. The director denied the application on December 3, 2003. She subsequently filed another Form I-821 on May 12, 2005. The director denied that application on August 16, 2005. Therefore, she is not an alien currently eligible to be a TPS registrant.

The applicant has failed to establish that he has met any of the 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 credible evidence to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite periods as set forth at 8 C.F.R. § 244.2(b) and (c). The applicant indicated on his TPS application that he entered the United States in 1999 and has continuously resided and been continuously physically present in the United States since that year. However, the Salvadoran marriage certificate (No. 1 above) indicates that the applicant was married in El Salvador on May 14, 2002. This document contradicts the applicant's claim to have resided and been continuously physically present in the United States since 1999. The applicant has not provided any explanation for this discrepancy. Doubt cast on any aspect of the petitioner'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 petitioner 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). 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.