



U.S. Citizenship
and Immigration
Services

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JUL 13 2007



FILE:

[WAC 04 171 51269]

OFFICE: California Service Center

DATE:

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:



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 (CSC). It is now on appeal before the Administrative Appeals Office (AAO). 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 director denied the application on the ground that the applicant failed to register an application for TPS during the initial registration period for El Salvadoran nationals and failed to establish his eligibility for late TPS registration.

On appeal, the applicant acknowledges that he did not file his TPS application during the requisite period and asserts that this failure was due to poor advice he received from a “notario.”

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 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.

El Salvadoran nationals applying for TPS must demonstrate continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States since March 9, 2001. The initial registration period for El Salvadorans was from March 9, 2001, through September 9, 2002.

The applicant filed his initial Form I-821, Application for Temporary Protected Status, on May 25, 2004 – more than a year and a half after the close of the initial registration period for El Salvadoran nationals. To qualify for late registration, the applicant must provide evidence that during the initial registration period he met at least one of the conditions described in 8 C.F.R. § 244.2(f)(2) above, and filed his TPS application within 60 days of the expiration of that condition, as prescribed in 8 C.F.R. § 244.2(g).

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. *See* 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. *See* 8 C.F.R. § 244.9(b).

The applicant states on appeal that he was riding on an application for asylum (Form I-589) until its denial by Citizenship and Immigration Services (CIS) on March 2, 2004, thereby qualifying for late TPS registration under 8 C.F.R. § 244.9(f)(2)(ii). CIS records confirm that [redacted] [Alien [redacted] married the applicant in El Salvador on August 22, 1986, and identified him as her husband on an Application for Asylum and Withholding of Deportation she filed with the California Service Center on August 28, 1997.¹ CIS records do not confirm the March 2, 2004 denial date asserted by the applicant. Rather, they indicate that [redacted] was granted lawful permanent residence in the United States on October 21, 2003, on which date her asylum application was closed and the applicant was deleted from her case.

The applicant did not file his TPS application until May 25, 2004, the date of the CSC's receipt stamp on the Form I-821. That was more than 60 days after the applicant's deletion from the asylum application on which he

¹ The record casts doubt on whether the applicant was still married to [redacted] at the time her asylum application was closed in 2003. The record in file number [redacted] includes a License and Certificate of Confidential Marriage indicating that [redacted] married [redacted] on November 20, 1996, and [redacted] identified [redacted] as her husband on a Form I-881, Application for Suspension of Deportation or Special Rule cancellation of Removal (pursuant to NACARA), filed on October 18, 2000.

claimed to be riding. (It was also more than 60 days after March 2, 2004, the date the applicant asserts the asylum application was denied.) Thus, the TPS application was not filed within 60 days of the end of the qualifying condition for late registration, as required in 8 C.F.R. § 244.2(g). Though the applicant asserts that he would have filed his application on time if he had received better advice from a “notario” he consulted, that explanation does not obviate the fact that the TPS application did not meet the late filing requirements prescribed in 8 C.F.R. § 244.2(g).

Accordingly, the director’s denial of the application will be affirmed on the ground that the applicant failed to establish his eligibility for late TPS registration.

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 that burden.

ORDER: The appeal is dismissed.