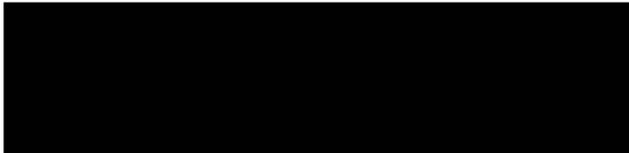




**U.S. Citizenship
and Immigration
Services**

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prevent clearly unwarranted
invasion of personal privacy**

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FILE: [REDACTED]
[WAC 05 215 77130]

Office: CALIFORNIA SERVICE CENTER

Date: **APR 0 32DD8**

INRE: Applicant:

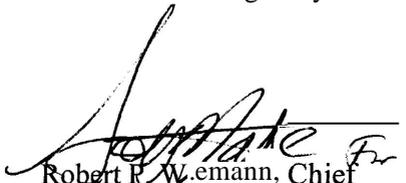


APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

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.


Robert R. Wemmann, 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.

It is noted that although the record does contain Form G-28, Notice of Entry of Appearance as Attorney or Representative, counsel was withdrawn on April 4, 2006. Therefore, the applicant shall be considered as self-represented and the decision will be furnished only to the applicant.

The record reveals that the applicant filed a TPS application on September 13, 2002, subsequent to the initial registration period, under Citizenship and Immigration Services (CIS) receipt number LIN 03 016 50058. The Director, Nebraska Service Center, denied that application on April 9, 2003, because the applicant failed to establish her qualifying continuous residence and continuous physical presence in the United States during the requisite periods. The applicant filed an appeal on May 7, 2003. The AAO dismissed the appeal on September 13, 2004, because the applicant failed to establish her qualifying continuous residence and continuous physical presence in the United States during the requisite periods, and because she had failed to establish her eligibility for late registration.

The applicant filed the current Form 1-821, Application for Temporary Protected Status, on March 3, 2005, and indicated that she was re-registering for TPS.

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 the applicant is filing an application as a re-registration, 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.

In this case, 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.

The applicant claims eligibility for late registration because she is 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 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
- (t)
 - (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.

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) on March 3, 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(t)(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).

The applicant claims on the Form 1-821, Application for Temporary Protected Status, that she is married [REDACTED] on November 1, 1993, in El Salvador. The applicant also submitted a copy of her marriage certificate reflecting that the applicant was married to [REDACTED] on November 1, 1993, in El Salvador. Further, a review of the record of [REDACTED] reflects that his TPS application was approved on March 11, 2003. As such, the applicant has established that she met one of the criteria for late registration described in 8 C.F.R. § 244.2(f)(2). Therefore, the director's decision on this ground will be withdrawn.

However, while the regulations may allow spouses of aliens who are TPS eligible to file their applications after the initial registration period had closed, these regulations do not relax the requirements of eligibility for TPS.

It is noted that the applicant has not submitted sufficient evidence to establish her continuous residence and continuous physical presence in the United States since February 13, 2001, in that the record of proceeding shows that the applicant entered the United States as a non-immigrant BI/B2 visitor on March 6, 2002. The record also shows that she was admitted to the United States until September 5, 2002. Therefore, the applicant is unable to establish her continuous residence and continuous physical presence in the United States since February 13, 2001, and March 9, 2001, respectively. For these reasons, the director's decision to deny TPS 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. The application will be denied for the above reasons, with each considered as an independent and alternative basis for denial.

ORDER: The appeal is dismissed.