



U.S. Citizenship
and Immigration
Services

(b)(6)

[Redacted]

DATE: **AUG 28 2013**

Office: VERMONT SERVICE CENTER

FILE: [Redacted]

IN RE: Applicant: [Redacted]

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

ON BEHALF OF APPLICANT:

[Redacted]

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements. See also 8 C.F.R. § 103.5. Do not file a motion directly with the AAO.**

Thank you,

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Vermont Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant claims to be 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 because the applicant failed to establish she was eligible for late registration.

On appeal, counsel asserts that along with her TPS application the applicant, in 2002, submitted three money orders in the amount of \$50, \$100 and \$25. Counsel submits an affidavit from the applicant and a photocopy of the TPS application date stamped February 25, 2002.

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 Secretary 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 TPS 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 El Salvadorans was from March 9, 2001, through September 9, 2002. Subsequent extensions of the TPS designation have been granted, with the latest extension granted until September 9, 2013, upon the applicant's re-registration during the requisite period.

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. If the qualifying condition or application has expired or been terminated, the individual must file within a 60-day period immediately following the expiration or termination of the qualifying condition in order to be considered for the late initial registration. 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 U.S. Citizenship and Immigration Services (USCIS). 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 AAO conducts appellate review on a *de novo* basis. See *Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004).

In her affidavit on appeal, the applicant asserts, in pertinent part:

In 2001, in 2002 and in 2005 I applied to Temporary Protective Status (TPS). In 2002 I sent my TPS application with three money orders: one for \$50, and another for \$100 and the last one for \$25. In 2002 these money orders were returned to me by immigration along with my TPS application.

The record reflects that a TPS application () was received on May 14, 2001; however, the application was not signed by the applicant and therefore it was rejected.¹ On July

¹ A benefit request which is not signed will be rejected. 8 C.F.R. § 103.2(a)(7)(i).

10, 2001, the application along with the form of fee payment (in the amount of \$175) was returned to the applicant. The notice advised the applicant that after the application was properly signed, to resubmit the entire package including any fee payment which had been returned.

A TPS application [REDACTED] was received on February 25, 2002. On March 1, 2002, a rejection notice was sent to the applicant, which advised her that the application could not be accepted "because the proper fee of \$100.00 U.S. is not attached." The applicant was further advised to attach a check or money order for this amount and resubmit the entire package.

A TPS application ([REDACTED]) was received on March 11, 2005. On May 2, 2005, the application was rejected because either an incorrect or no fee was submitted. The applicant filed the current application on March 12, 2012.

The TPS application received on February 25, 2002, contains a written notation of "25.00" and "50.00". Coupled with notation and the fact that the rejection notice of March 1, 2002, indicated that the fee of \$100 had not been submitted, the applicant's assertion that three money orders in the amount of \$100, \$50 and \$25 were returned to her in 2002 has no merit.

No explanation has been provided why, upon receiving the rejection notice of March 1, 2002, the applicant waited over three years to submit another TPS application in 2005. The initial registration period was still in effect at the time her application was rejected in 2002. The applicant had ample time to re-submit the TPS application with the required fee amount, but failed to do so.

A properly completed TPS application was not filed during the initial registration period of the designation for El Salvador. The provisions for late registration detailed in 8 C.F.R. § 244.2(f)(2) were not created to allow aliens who had abandoned their initial applications to circumvent the normal application and adjudication process. Rather, these provisions were created in order to ensure that TPS benefits were made available to aliens who did not register during the initial registration period for the various circumstances specifically identified in the regulations. The applicant has not submitted any evidence to establish that she 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 current application for TPS will be affirmed.

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.