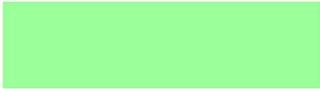


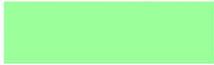


U.S. Citizenship
and Immigration
Services

(b)(6)



DATE: **MAR 04 2013** Office: VERMONT SERVICE CENTER

FILE: 

IN RE: Applicant: 

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

ON BEHALF OF APPLICANT: Self-represented

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the Vermont Service Center. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of \$630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,



Ron Rosenberg
Acting 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 Honduras who is applying for Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254.

At the time the applicant filed his application he was represented by counsel. However, there is no indication that counsel is representing the applicant on appeal as a new Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative, was not submitted with the Form I-290B, Notice of Appeal or Motion.¹ On January 15, 2013, counsel was informed by the Director, Vermont Service Center, to submit a properly completed Form G-28 directly to the AAO. To date, the required Form G-28 has not been submitted. Therefore, the applicant shall be considered as self-represented and the decision will be furnished to the applicant at his address of record.

The director denied the application because the applicant failed to establish that he was eligible for late registration.

On appeal, the applicant asserts that he is eligible for late registration as he was married in a civil ceremony in El Salvador on February 8, 1983 to his spouse, an El Salvadoran and a TPS registrant. The applicant states that he and his spouse remarried in 2002 because his spouse was unable to locate their marriage certificate in El Salvador.

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

¹ In accordance with the U.S. Citizenship and Immigration Services regulation at 8 C.F.R. § 292.4(a) as well as the instructions to the Form I-290B, a new Form G-28 must be filed with an appeal filed with the AAO. This regulation applies to all appeals filed on or after March 4, 2010. See 75 Fed. Reg. 5225 (February 2, 2010).

(b)(6)

- (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 Hondurans must demonstrate that they have continuously resided in the United States since December 30, 1998, and that they have been continuously physically present since January 5, 1999. The initial registration period for Hondurans was from January 5, 1999, through August 20, 1999. Subsequent extensions of the TPS designation have been granted, with the latest extension granted until July 5, 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 he 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).

The record reveals that the applicant filed his initial TPS application [REDACTED] on January 10, 2005. On July 1, 2006, the Director, California Service Center, denied the application as the applicant failed to establish eligibility for late registration. No appeal was filed from the denial of that application.

The applicant filed the current TPS application on March 12, 2012. On July 10, 2012, the director denied the current application because the applicant had not provided any compelling evidence to establish eligibility for late registration. The marriage certificate presented indicates that the applicant was married [REDACTED] in Long Beach, New York.

The applicant's statements on appeal raise questions concerning their veracity as the record reflects that the applicant indicated on his Form I-589, Application for Asylum and Withholding of Removal, filed on March 21, 1989, that he did not have a wife. A review of the TPS application filed on August 13, 2001, by the applicant's spouse indicates that she listed herself as single. The temporary passport of the applicant's spouse issued on November 6, 1991, by the Consulate General of El Salvador in New York City, lists her marital status as "maiden."

The applicant has not submitted any credible evidence of a marriage in El Salvador on February 8, 1983. Simply going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)). The applicant has failed to submit any evidence 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.

Assuming, *arguendo*, the applicant had submitted a marriage certificate to support his claim of marriage on February 8, 1983 to his spouse, the applicant would still be ineligible for late registration under 8 C.F.R. § 244.2(f)(2)(iv). During the initial registration period (January 5, 1999, through August 20, 1999) for TPS offered to Hondurans, the applicant's spouse was not a TPS registrant.

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.