



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

**Non-Precedent Decision of the
Administrative Appeals Office**

In Re: 22204185

Date: AUG. 15, 2022

Appeal of Texas Service Center Decision

Form I-821, Application for Temporary Protected Status

The Applicant, a national of El Salvador seeks Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254a.

The Director of the Texas Service Center denied the TPS request, concluding that the Applicant did not establish eligibility for late initial TPS registration.

On appeal, the Applicant asserts that he qualifies for late initial TPS registration because during the initial registration period he had a pending TPS application, although it was later denied for abandonment. In the alternative, the Applicant requests us to reopen and reconsider the denial of that application.

In these proceedings, it is the Applicant's burden to establish eligibility for the requested benefit. Section 291 of the Act, 8 U.S.C. § 1361. Upon *de novo* review, we will dismiss the appeal because the Applicant has not met this burden.

I. LAW

On March 9, 2001, the Secretary of Homeland Security designated El Salvador for TPS.¹ Department of Homeland Security (DHS) regulations provide that an applicant who is a national of a foreign state so designated must register for TPS during the initial registration period announced by public notice in the Federal Register. 8 C.F.R. § 244.2(f)(1). To meet the initial registration requirements, Salvadoran nationals must have applied for TPS during the initial registration period, March 9, 2001, through September 9, 2002.

¹ *Designation of El Salvador Under Temporary Protected Status Program*, 66 Fed. Reg. 14214 (Mar. 9, 2001). The TPS designation has been extended several times, with the latest extension valid until March 9, 2018. DHS terminated designation of El Salvador for TPS effective on September 9, 2019. 83 Fed. Reg. 2654 (Jan. 18, 2018). However, the designation will continue for as long as preliminary injunction ordered by court in *Ramos, et al v. Nielsen, et al.*, No. 18-cv-01554 (N.D. Cal. Sept. 14, 2020) remains in effect. See *Temporary Protected Status Designated Country: El Salvador*, <https://www.uscis.gov/humanitarian/temporary-protected-status/temporary-protected-status-designated-country-el-salvador>

Applicants who did not register for TPS within the above time frame, may apply during any subsequent registration period, if they meet one of the late registration requirements described in the regulations at 8 C.F.R. § 244.2(f)(2) or (g).

The regulations provide that to establish eligibility for late initial registration, the applicant must show that during the initial registration period (March 9, 2001, through September 9, 2002) he or she:

- (i) was a nonimmigrant or had been granted voluntary departure status or any relief from removal;
- (ii) had an application for change of status, adjustment of status, asylum, voluntary departure, or any relief from removal which was pending or subject to further review or appeal;
- (iii) was a parolee or had a pending request for re-parole; or
- (iv) was a spouse or child of a foreign national eligible to be a TPS registrant.

If the qualifying condition has expired or been terminated, an applicant must file for TPS within a 60-day period immediately following the expiration or termination. 8 C.F.R. § 244.2(g).

U.S. Citizenship and Immigration Services (USCIS) will judge sufficiency of all evidence according to its relevancy, consistency, credibility, and probative value. 8 C.F.R. § 244.9(b). To meet their burden of proof, applicants must provide supporting documentary evidence of eligibility apart from their own statements. *Id.*

II. ANALYSIS

The sole issue on appeal is whether the Applicant has established that he meets any of the eligibility criteria for late initial TPS registration set forth in the regulations at 8 C.F.R. § 244.2(f)(2). We have reviewed the record of proceedings, including the Applicant's arguments on appeal and for the reasons explained below conclude that he has not.

The record reflects that the Applicant entered the United States in July 2000 without inspection and admission or parole. In August 2001 he filed a Form I-821, which was ultimately denied in 2005 for abandonment after the Applicant did not attend the required fingerprinting appointment.

In March 2021 the Applicant filed the instant Form I-821 indicating that he was seeking TPS as an initial matter, and that he does not currently have TPS. The Director issued a notice of intent to deny this late TPS request (NOID), giving the Applicant an opportunity to submit evidence that during the initial TPS registration period he met one or more requirements described in 8 C.F.R. § 244.2(f)(2)(i)-(iv). In response, the Applicant submitted copies of his 2001 Form I-821 filing receipt and related documents. He asserted that he satisfied the late initial registration condition in 8 C.F.R. § 244.2(f)(2)(ii), because he had an "[a]pplication for change of status pending during the initial registration period of March 2001-November 2002." In denying the TPS request, the Director stated generally that none of the documents the Applicant provided established his eligibility for late initial TPS registration.

The Applicant now resubmits evidence related to his Form I-821 filed in 2001. He reasserts that this Form I-821, which was pending during the initial TPS registration period qualifies as an "application

for change of status” required under the regulations at 8 C.F.R. § 244.2(f)(2)(ii). In support, he states only that there is nothing in the regulations, caselaw, or USCIS policy to indicate that a TPS application itself cannot be an “application for a change of status.”

The Applicant’s unsupported statement is not sufficient to establish that a TPS application constitutes an application for a change of status for purposes of 8 C.F.R. § 244.2(f)(2)(ii). The late registration provisions apply to “[e]ligible persons who did not register for TPS because they are or were in a status or a condition that made it unnecessary or discouraged registration during the initial registration period.” See *Matter of Echeverria*, 25 I&N Dec. 512, 517 (BIA 2011) (citing *Temporary Protected Status, Exception to Registration Deadlines*, 63 Fed. Reg. 63593 (Nov. 16, 1998)); see also, *Matter of N-C-M-*, 25 I&N Dec. 535, 539 (BIA 2011) (noting that the regulations regarding late TPS registration originally “were intended only to address the situation of [noncitizens] who maintained ‘valid immigrant or nonimmigrant status during the initial registration period’ and did not register initially for TPS because such protection was not needed on account of their valid status.”)

Furthermore, the regulations at 8 C.F.R. § 244.2(f)(2) provide a list of specific immigration benefits, which must have been pending during the initial TPS registration period in order for an individual to qualify for late initial TPS registration. A pending TPS request is not included in that list, and “an application for change of status” referenced therein does not encompass a pending TPS request. Rather, “an application for change of status” is a separate immigration benefit which refers to filing Form I-539, Application to Extend/Change Nonimmigrant Status, and not Form I-821. The Applicant does not claim that he filed a Form I-539 at any time following his 2000 entry without inspection, and that it remained pending during the initial TPS registration period under the Salvadorean designation.

The Applicant does not cite any legal authority or USCIS policy guidance to support his claim that a TPS request qualifies as “an application for change of status” within the meaning of 8 C.F.R. § 244.2(f)(2)(ii). Nor does he provide evidence that during the initial registration period he had an application for adjustment of status, asylum, voluntary departure, or any relief from removal which was pending or subject to further review or appeal. As such, he has not demonstrated eligibility for late initial registration under 8 C.F.R. § 244.2(f)(2)(ii). Moreover, there is nothing in the record before us to suggest that during the initial registration period the Applicant was a nonimmigrant or had been granted voluntary departure or any relief from removal; was a parolee or had a pending request for re-parole; or had a qualifying familial relationship with another TPS-eligible noncitizen, as required under the regulations at 8 C.F.R. § 244.2(f)(2)(i), (iii), or (iv). We conclude, therefore, that the Applicant has not established eligibility for TPS as a late initial registrant.

Lastly, we are without jurisdiction to review the 2005 denial of the Applicant’s 2001 TPS request.²

ORDER: The appeal is dismissed.

² We note that the Applicant previously appealed the denial to our office. We rejected his appeal, as denials due to abandonment may not be appealed. See 8 C.F.R. § 103.2(b)(15). The Applicant would have to seek reopening and reconsideration of the 2005 TPS abandonment denial before the Director. See 8 C.F.R. § 103.5(a) (describing motion requirements).