



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

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

In Re: 23251951

Date: DEC. 5, 2022

Appeal of Vermont Service Center Decision

Form I-821, Application for Temporary Protected Status

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

The Applicant filed the instant Form I-821 indicating that he had been granted TPS and was applying to re-register his status. The Director of the Vermont Service Center denied the application, concluding that the Applicant was not eligible to re-register for TPS because his initial TPS request had been denied.

On appeal, the Applicant asserts that he mistakenly thought that his initial TPS request had been granted, and only recently realized that it had been denied in 2003 on criminal grounds. He states that he is now eligible for TPS because a California court vacated his misdemeanor convictions, and requests us to remand his Form I-821 to the Director for consideration as a late initial TPS filing.

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

A national of a country designated for TPS must register in the initial registration period announced by public notice in the Federal Register, or meet any of the late initial registration criteria. 8 C.F.R. § 244.2(f).

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

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. The designation of El Salvador for TPS has been terminated 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.

Individuals 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 conditions in 8 C.F.R. § 244.2(f)(2) or (g).

To be eligible for late initial registration, a Salvadoran national must show that during the initial registration period (March 9, 2001, through September 9, 2002) he or she: (1) was a nonimmigrant or had been granted voluntary departure status or any relief from removal; (2) 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; (3) was a parolee or had a pending request for re-parole; or (4) was a spouse or child of a foreign national eligible to be a TPS registrant. 8 C.F.R. § 244.2(f)(2). 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).

II. ANALYSIS

The issues on appeal are whether the Applicant has demonstrated eligibility for TPS re-registration or, in the alternative for late initial TPS registration.

We have reviewed the record of proceedings before us and for the reasons explained below conclude that the has not established he qualifies for TPS under either scenario.

The record reflects that the Applicant entered the United States in August 2000 without inspection and admission or parole. In [] 2001 he was placed in removal proceedings. The Applicant subsequently filed a Form I-821, which was denied in 2003 upon determination that he was ineligible for TPS pursuant to section 244(c)(2)(B) of the Act as an individual convicted of two misdemeanor offenses committed in the United States.

A. TPS Re-registration

The Applicant filed the instant Form I-821 following the extension of TPS benefits for Salvadorans, and represented that he was seeking TPS re-registration. The relevant notice published in the Federal Register provides in part that re-registration is limited to current beneficiaries under the TPS designation for El Salvador and those whose applications remain pending.² Furthermore, Form I-821 instructions explain that applicants may re-register if they “*currently have TPS* and are re-registering” (emphasis added).³ The Applicant did not have TPS when he filed the instant Form I-821 requesting re-registration, because his initial TPS request had been denied in 2003. Accordingly, there is no basis for the Applicant to re-register for TPS absent favorable reconsideration of the initial TPS denial, which is not before us.⁴

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>.

² *Continuation of Documentation for Beneficiaries of Temporary Protected Status Designations for El Salvador, Haiti, Nicaragua, Sudan, Honduras, and Nepal Extension of the Designation of El Salvador for Temporary Protected Status*, 85 Fed. Reg. 79208 (December 9, 2020).

³ Page 4, Instructions for Form I-821, <https://www.uscis.gov/i-821>.

⁴ The Applicant would need to seek a reopening of that decision before the Director.

B. Late Initial Registration

The Applicant also has not demonstrated eligibility for late initial TPS registration pursuant to the provisions in 8 C.F.R. § 244.2(f)(2). As stated, to qualify for late initial registration, the Applicant must show that during the time period from March 9, 2001, through September 9, 2002, he was either a spouse or a child of another noncitizen eligible for TPS; had nonimmigrant or parole status; or that he had a pending application for change of status, adjustment of status, asylum, voluntary departure, or any relief from removal. The Applicant has not shown that he meets any of these conditions. The record reflects that he was ordered removed from the United States *in absentia* in [] 2004, and he submits no evidence to show that he had another application for asylum or other relief from removal pending during the relevant time period from March 9, 2001, through September 9, 2002. Nor does he claim that during this period he was a nonimmigrant, a parolee, or a spouse or child of a noncitizen eligible for TPS.

The Applicant therefore has not shown that he qualifies for TPS as a late initial registrant.

III. CONCLUSION

The Applicant is ineligible to re-register for TPS because his initial TPS request was denied, and he has not established that he meets any conditions for late initial registration. Accordingly, his TPS request remains denied.⁵

ORDER: The appeal is dismissed.

⁵ Because the Applicant has not established that he is eligible to seek TPS at this time, we need not address whether he meets the substantive requirements for such status, including whether he may be barred from criminal grounds. Instead, we reserve the issue.