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U.S. Department of Homeland Security  
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Washington, DC 20536



U.S. Citizenship  
and Immigration  
Services



FILE: [Redacted]

Office: CALIFORNIA SERVICE CENTER

Date: AUG 2 2011

IN RE: Applicant: [Redacted]

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 P. Wiemann, Director  
Administrative Appeals Office

U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Department of personal privacy

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

The applicant is a native and 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 he was eligible for late registration.

On appeal, the applicant submitted additional evidence and resubmitted some documents that had been previously entered into the record.

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 temporary protected status only if such alien establishes that he or she:

- (a) Is a national, as defined in section 101(a)(21) of the Act, of a foreign 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
- (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 Salvadorans was from March 9, 2001, through September 9, 2002. The record reveals that the applicant filed his initial application with the Immigration and Naturalization Service, now Citizenship and Immigration Services (CIS), on November 5, 2002.

To qualify for late registration, the applicant must provide evidence that during the initial registration period, he or she was either in a valid immigration status, had an application pending for relief from removal, was a parolee, or was the spouse or child of an alien currently eligible to be a TPS registrant, and had filed an application for late registration within 60 days of the expiration or termination of the conditions described in 8 C.F.R. § 244.2(f)(2).

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).

On July 10, 2003, the applicant was requested to submit evidence establishing his eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2). The applicant was also requested to submit evidence establishing his continuous residence and continuous physical presence in the United States from February 13, 2001, to the date of filing. The applicant, in response, provided evidence of his residence and physical presence in the United States.

The director noted that the applicant's response to the request for evidence was received after the allotted 30-day period. The director's decision stated that the "applicant's response was incomplete/incorrect," and "[t]herefore, the application is denied for lack of prosecution." The director simultaneously determined that the applicant had failed to establish he was eligible for late registration and denied the application on September 10, 2003. Because the application has been denied for cause, the director's statement that the application is denied for lack of prosecution is, hereby, withdrawn.

On appeal, the applicant stated the request for evidence had been misplaced and by the time he responded, it was late. The applicant submitted additional evidence on appeal and resubmitted some documents previously entered into the record, relating to his continuous residence and continuous physical presence in the United States during the requisite timeframe.

The applicant has submitted evidence in an attempt to establish his qualifying residence and physical presence in the United States. However, this evidence does not mitigate the applicant's failure to file his Application for Temporary Protected Status within the initial registration period. It is noted that the applicant was unmarried and under the age of 21 at the time of the initial registration period. The applicant, however, did not assert or submit any evidence establishing that he was a child of an alien currently eligible to be a TPS registrant. The applicant has not submitted 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 temporary protected status will be affirmed.

It is noted that the applicant submitted a letter from the Internal Revenue Service (IRS) dated July 17, 2002, that provides an IRS Individual Taxpayer Identification Number in the applicant's name, at his given address. This IRS letter indicates the applicant's date of birth as May 23, 1983. The applicant's submitted individual federal and state income tax returns, utilize this taxpayer identification number. The applicant's birth certificate, however, indicates his birth date as May 29, 1983. Other documentation in the record, including a pre-employment drug test and an Enrollment Agreement and Installment Contract, [?] G A Truck Driving School, Whittier, California, furthermore, provide a different social security number for the applicant using the May 29, 1983 birth date. The medical laboratory document indicates: "SS# confirmed verbally w/Donor." The applicant has not offered an explanation for the different social security number and taxpayer identification number associated with his name.

Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988). Therefore, the reliability of the remaining evidence offered by the applicant is suspect and undermines a finding that the applicant has established his continuous residence and continuous physical presence in the United States during the requisite timeframe.

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.

**ORDER:** The appeal is dismissed.