



U.S. Citizenship
and Immigration
Services

10/1

[REDACTED]

FILE:

[REDACTED]

Office: VERMONT SERVICE CENTER

Date:

AUG 31 2004

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.

for

for

Robert P. Wiemann, Director
Administrative Appeals Office

Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy
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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 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 provides a brief statement.

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 January 24, 2003.

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).

In a notice of intent to deny, dated May 2, 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 physical presence in the United States from March 9, 2001, to the date of filing, and evidence of his continuous residence in the United States since February 13, 2001. The applicant was also requested to submit evidence establishing his nationality, such as a copy of the photo and biographical page of his passport, a birth certificate, and a copy of both sides of his national identification card. The director found that the applicant had "proven" his "residence and presence" in the United States, but that he had failed to address the issue of his eligibility for late registration. As the applicant had not demonstrated his eligibility for late registration, the director denied the application on July 10, 2003. It is also noted that the director found that although the applicant filed an application for asylum in "1992," it did not meet any of the conditions of eligibility for late registration during the initial registration period, as the asylum application was withdrawn in 2000, and the applicant was notified that the case was terminated on October 26, 2000. In order to qualify for late registration the applicant would have had to file the TPS application within a 60-day period immediately following the expiration or termination of conditions described in 8 C.F.R. § 244.2(f)(2).

On appeal, the applicant states, "all I can say is that I understand that I cannot establish that I did not apply for the TPS based on the late registration provisions." The applicant provided no additional documentation in support of the appeal.

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.

Beyond the decision of the director, the AAO finds that the director erred in stating that the applicant had provided sufficient evidence to establish his continuous physical presence and his continuous residence in the United States during the required timeframes, as the record contains only a few pay records for the applicant for the months of January and February of 2001, copies of his social security card and his employment authorization card, a copy of his father's employment authorization card, immigration correspondence, and 1999 correspondence from the applicant's representative during the time of his asylum request. It is noted that the director did not discuss if the applicant had provided evidence to establish his nationality. Nevertheless, although the record contains a photocopy of a birth certificate in the name of [REDACTED], the record contains insufficient evidence to establish the applicant's identity and nationality. Consequently, the application must also be denied for these reasons.

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.