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

MI

FILE:

[REDACTED]
[EAC 03 264 51954]

Office: Vermont Service Center

Date: **AUG 16 2005**

IN RE:

Applicant: [REDACTED]

APPLICATION:

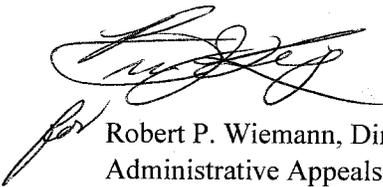
Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT:

[REDACTED]

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 Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Vermont 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, counsel, on behalf of the applicant, submits a statement in support of the applicant's claim of eligibility for TPS late registration.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an applicant is eligible for TPS 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 § 244.3;
- (e) Is not ineligible under § 244.4; and
- (f)
 - (1) Registers for Temporary Protected Status 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 Citizenship and Immigration Services (CIS) on September 27, 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).

On February 13, 2004, 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 to establish that he is a citizen or national of El Salvador. In response, the applicant submitted copies of his El Salvadoran passport and his birth certificate, as well as some evidence in an attempt to establish his continuous residence and continuous presence in the United States during the requisite time periods. However, the applicant did not submit any evidence to establish his eligibility for TPS late registration. The director, therefore, determined that the applicant had failed to establish he was eligible for late registration and denied the application on April 9, 2004. The director noted that the applicant had submitted documentation to establish that he is a national of El Salvador.

On appeal, counsel, on behalf of the applicant, states that the applicant is eligible for TPS late registration; however, his office failed to prepare and file the TPS application within the requisite 60 days of the applicant's mother, Ms. [REDACTED] being granted permanent residence status through NACARA. Further, counsel states that the asylum application of his mother was withdrawn on December 13, 2002. In addition, counsel provides a statement from the applicant regarding the events surrounding his application for TPS and the reasons the application was not timely filed. Counsel, on appeal, also submits a copy of a letter from the Service dated December 13, 2002, indicating that the applicant's mother was granted permanent residence status on December 13, 2002.

According to the record and CIS' systems, the applicant's mother was granted permanent residence on December 13, 2002. At the time the applicant filed his application for TPS, his mother was already a lawfully admitted permanent resident, not an alien currently eligible to be a TPS registrant; therefore, the applicant is not eligible for late registration. Furthermore, the regulations require that a late registration be filed within a 60-day period immediately following the expiration or termination of conditions described in paragraph (f)(2) of this section. 8 C.F.R. § 244.2(g). In this case, the application for TPS was filed on September 27, 2003, more than 60 days after the applicant's mother withdrew her asylum application on December 13, 2002. The applicant has failed 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 conclusion that the applicant had failed to establish his eligibility for late registration will be affirmed.

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.