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U.S. Citizenship
and Immigration
Services

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JUN 06 2005

FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date:
[WAC 03 261 52536]

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

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 submits a statement and additional evidence.

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 9, 2003.

To qualify for late registration, the applicant must provide evidence that during the initial registration period, he 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 he 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 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 burden of proof, the applicant must provide supporting documentary evidence of eligibility apart from his own statements. 8 C.F.R. § 244.9(b).

The director determined that the applicant had failed to establish he was eligible for late registration and denied the application on March 2, 2004.

On appeal, the applicant asserts that he qualifies for late initial registration because he had a pending asylum application. He submits documents to establish his identity and nationality, evidence in an attempt to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite periods, and a notice from the Board of Immigration Appeals (BIA) dismissing his appeal from the denial of his applications for asylum and for withholding of removal.

The record indicates that the applicant filed a Form I-589, Request for Asylum in the United States, on March 17, 1993. His asylum application was denied on November 3, 1995, and he was referred for a deportation hearing before an Immigration Judge.

On August 16, 1996, an Immigration Judge in Los Angeles, California, denied the applicant's requests for asylum and for withholding of removal and granted the applicant the privilege of voluntary departure from the United States on or before October 16, 1996, with an alternate order of deportation if the applicant failed to depart in compliance with the grant of voluntary departure.

The applicant's subsequent appeal from the Immigration Judge's order was dismissed by the BIA on July 18, 1997. On January 24, 1998, the District Director, Los Angeles, issued a Form I-205, Warrant of Removal/Deportation, and a Form I-166 notice ordering the applicant to report to the Los Angeles District Office on March 17, 1998, for deportation to El Salvador. The applicant failed to appear to be deported as ordered. It is noted that the Warrant of Deportation is still outstanding.

The BIA dismissed the applicant's appeal from the Immigration Judge's order on July 18, 1997. As of that date, the applicant's asylum application was terminated. In order to be eligible for late initial registration based on a pending asylum application, the applicant was required to file the TPS application within 60 days of the termination of his applications for asylum and for withholding of removal. As previously stated, the applicant did not file his TPS application until September 9, 2003. Therefore, he is not eligible for late initial registration on this basis.

The applicant has not submitted any evidence to establish that he has met any of the other 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.

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.