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U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
[WAC 04 007 53269]

Office: CALIFORNIA SERVICE CENTER

Date: MAY 05 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: 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.

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 properly filed his initial application with correct fees with Citizenship and Immigration Services (CIS) on September 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).

On December 18, 2003, the applicant was requested to submit evidence of identity and nationality, evidence to establish his eligibility for late initial registration, and evidence of his continuous residence in the United States since February 13, 2001, and his continuous physical presence in the United States since March 9, 2001. In response, the applicant provided evidence of his identity and nationality and additional evidence of continuous residence and continuous physical presence. The applicant explained that he was qualified for late initial registration because he was the husband of an alien who was currently eligible to be a TPS registrant. He submitted photocopies of two Forms I-797 acknowledging receipt of a Form I-765, Application for Employment Authorization, and a Form I-821, Application for Temporary Protected Status, on September 19, 2003, from [REDACTED] CIS registration number [REDACTED].

The director determined that the applicant had failed to establish he was eligible for late registration and denied the application on March 18, 2004.

On appeal, the applicant states that he has lived in the United States since January 31, 2001, but he did not register for TPS during the initial registration period for Salvadorans because he and his wife were without jobs for a long time and didn't have enough money to pay the application fees. He further explains that he didn't realize that there was a deadline for applying for TPS.

In order to establish eligibility for late initial registration based on his wife's application for TPS, the applicant must establish that his wife applied for TPS during the initial registration period, and that he and Ms. [REDACTED] were married during the initial registration period. 8 C.F.R. § 244.2(f)(2). The applicant has provided evidence that [REDACTED] for TPS on September 19, 2003, two years after the expiration of the initial registration period for Salvadorans; however, he has not provided any evidence to establish that Ms. [REDACTED] is his wife, or that they were married during the initial registration period. Further, CIS records indicate that Ms. [REDACTED] application was denied on February 23, 2004. Since the applicant, during the initial registration period, was not the spouse of an alien currently eligible to be a TPS registrant, he is not eligible for late 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.

Beyond the decision of the director, the applicant has not submitted sufficient evidence to establish continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States since March 9, 2001. Therefore, the application also must 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.