



U.S. Citizenship  
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FILE: [REDACTED] Office: VERMONT SERVICE CENTER  
[EAC 03 241 53374 - I-821]  
[EAC 04 179 51583 - MOTION]

Date: NOV 17 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, Vermont Service Center. The director subsequently dismissed a motion to reopen the case. The case is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant claims to be a citizen of El Salvador who is applying for Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254.

On April 2, 2004, the director determined that the applicant had failed to establish he is eligible for late registration. On May 26, 2004, the applicant filed a motion to reopen the director's decision. On July 15, 2004, the director dismissed the applicant's motion and reaffirmed his decision to deny the application. The applicant filed the instant appeal of that decision on August 17, 2004.

On appeal, the applicant submits a letter.

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 Form I-821, Application for Temporary Protected Status, with Citizenship and Immigration Services (CIS) on August 21, 2003, more than eleven months after the initial registration period had ended.

To qualify for late registration, the applicant must provide evidence that during the initial registration period he or she fell within at least one of the provisions described in 8 C.F.R. § 244.2(f)(2) above.

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 support of his initial Form I-821, the applicant submitted a photocopy of an abstract of his El Salvadoran birth certificate, with English translation, and documentation relating to his residence and physical presence in the United States from 1998 through 2002.

On September 17, 2003, the director requested the applicant to submit evidence establishing his eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2). In response to the director's request, the applicant submitted a letter, dated October 27, 2003, from his father, [REDACTED] stating that he (the applicant's father) had been granted lawful permanent residence under NACARA on August 26, 2002.<sup>1</sup>

The director determined that the applicant had failed to establish his eligibility for late registration and denied the application on April 2, 2004. The director clearly advised the applicant that any appeal of that decision must be filed within thirty-three days.

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<sup>1</sup> The Nicaraguan Adjustment and Central American Relief Act, Public Law 105-100 (NACARA).

On May 26, 2004, the applicant filed an appeal of the director's decision. In support of the appeal, the applicant submitted a letter, dated April 20, 2004, stating that he had been a dependent on his father's asylum application, but that his (the applicant's) status had expired on June 17, 2002. He further explained that he did not learn until July 2003, that he was eligible to file a TPS application.

Because the appeal was filed later than the prescribed period of thirty-three days, the director rejected the appeal. However, the director accepted the applicant's submission as a motion to reopen.

The director again determined that the applicant had failed to establish his eligibility for late registration. The director dismissed the motion and reaffirmed his decision to deny the application on July 15, 2004. The applicant has now filed an appeal of that decision.

On appeal, the applicant states that he has been receiving employment authorization since 1996 based on his father's asylum application and did not know that he had to apply for TPS.

Section 101(b)(1) of the Act defines the term "child" as an "unmarried person under twenty-one years of age." The evidence of record reveals that the applicant, who was born on August 10, 1979, turned twenty-one years of age on August 10, 2000. The initial registration period for Salvadorans was from March 9, 2001, through September 9, 2002. However, the applicant did not qualify as the "child" of an asylum applicant because he was over twenty-one years of age at the time of the initial registration period. The fact that the applicant has been authorized employment authorization since 1998 is irrelevant. 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 decision to deny the application for Temporary Protected Status will be affirmed.

Beyond the decision of the director, the applicant has not submitted an identity document bearing his photograph and/or fingerprint, as required under the provisions of 8 C.F.R. § 244.9(a)(1). The application must also be denied for this reason.

The application will be denied for the above stated reasons, with each considered as an independent and alternative basis for denial. 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.