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U.S. Citizenship  
and Immigration  
Services

M1

FILE:

[SRC 04 223 54092]

Office: TEXAS SERVICE CENTER

Date: NOV 29 2005

IN RE:

Applicant:

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, Texas Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

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

The director denied the application because the applicant was not physically present in the United States for the requisite period of time as he entered the country illegally on June 14, 2004 and was apprehended .25 miles east of the Eagle Pass Port of Entry on that date.

On appeal, the applicant states:

At this time Samuel Caceres confirm that I entered the United States of America in 1999 in 12/21/2000 also that I have sent evidence and money orders for \$110.00 dollars. I would appreciate if BCIS can re-open my case and look it over.

Section 244(c) of the Act, and the related regulations at 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 TPS only if such alien establishes that he or she:

- (a) Is a national of a 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 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 reflects that the applicant filed his initial application with Citizenship and Immigration Services (CIS), on August 17, 2004.

To qualify for late registration, an 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).

The director determined that the applicant had failed to establish he was eligible for TPS and denied the application on September 30, 2004. The record contains the applicant's claim that he entered the United States on December 21, 2000 but that he was not detained by "immigration." The applicant further claims: "I was detained on 06/14/2004 when I was close to the Mexican border but by this time I was already residing in the United States." On appeal, the applicant indicates that he entered the United States on December 21, 2000 and requests that his application be reviewed.

The record contains a Form I-213, Record of Deportable/Inadmissible Alien, dated June 15, 2004 indicating that the United States Border Patrol apprehended the applicant on June 14, 2004 near Eagle Pass, Texas. At his interview, the applicant stated that after he had traveled to Mexico from El Salvador, he waded across the Rio Grande River and entered the United States illegally on June 14, 2004. His statement to the border patrol officer negates his later assertion that he had been residing in this country for some time when he was apprehended near the Mexican border in 2004.

The applicant is required to meet the continuous residence and continuous physical presence requirements as provided in 8 C.F.R. §§ 244.2(b) and (c). None of the evidence presented by the applicant establishes his continuous residence since February 13, 2001 and his continuous physical presence from March 9, 2001. Therefore, he cannot satisfy the continuous residence and continuous physical requirements described in 8 C.F.R.

§§ 244.2(b) and (c). Consequently, the director's decision to deny the application for TPS is affirmed for these reasons.

The record reflects that on August 23, 2004, an Immigration Judge in San Antonio, Texas ordered the applicant removed from the United States to El Salvador.

Beyond the decision of the director, it also is noted that the applicant has provided insufficient evidence to establish that he is a national or citizen of El Salvador. The record does not contain any photo identification such as a passport or national identity document. 8 C.F.R. § 244.2(a)(1). Therefore the application shall be denied for this additional 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 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.