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U.S. Citizenship
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FILE: [REDACTED] OFFICE: VERMONT SERVICE CENTER DATE: NOV 30 2005
[EAC 03 020 52745]

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, 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 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 reveals that the applicant filed his initial application with the Immigration and Naturalization Service, now Citizenship and Immigration Services (CIS), on September 11, 2002.

To qualify for late registration, the applicant must provide evidence that during the initial registration period he 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 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).

On August 20, 2003, 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, in response, provided evidence in an attempt to establish his qualifying continuous residence and continuous physical presence in the United States.

The director determined that the applicant had failed to establish he was eligible for late registration and denied the application on September 25, 2003.

On appeal, the applicant states that he was included in his mother's Form I-589, Application for Asylum and for Withholding of Removal, as the unmarried child of an asylum applicant. The applicant further states that he filed a Form I-881, Application for Suspension of Deportation or Special Rule Cancellation of Removal (Pursuant to section 203 of Public Law 105-100 (NACARA), on November 15, 1999. The applicant asserts that he qualifies for late initial registration because he had a pending application for asylum and withholding of deportation during the initial registration period for Salvadorans. The applicant submits a photocopy of a notice dated October 24, 2000, dismissing the applicant's NACARA application in response to his request to withdraw his application; a photocopy of a form administratively terminating the applicant's NACARA application as of October 24, 2000; photocopies of his mother's Form I-551, Permanent Resident Alien Card, and her Social Security card; and, photocopies of expired Employment Authorization Cards issued to the applicant on the basis of his pending TPS application and asylum application.

The record reveals that the applicant's mother, [REDACTED] CIS registration receipt number [REDACTED] added the applicant to her asylum application as a class member of the American Baptist Church v. Thornburgh (ABC) Settlement Agreement on August 21, 1995. On September 11, 2000, it was determined that

the applicant was not eligible for ABC class membership because he entered the United States after September 19, 1990, the date by which Salvadoran ABC class members are required to have entered the United States. The record further reveals that the applicant withdrew his NACARA application on October 24, 2000.

In order to qualify for late initial registration on the basis of a pending asylum application, the applicant was required to file his Form I-821 within 60 days of the termination of his asylum application and his application for suspension of deportation under NACARA. As previously stated, the applicant's ABC asylum application was terminated on September 11, 2000, and his application for suspension of deportation under NACARA was administratively terminated at his request on October 24, 2000. Since the initial TPS registration period for Salvadorans did not begin until March 9, 2001, the applicant cannot qualify for late initial registration on the basis of his pending asylum and NACARA applications. Both applications were terminated prior to the beginning of the initial TPS registration period for Salvadorans.

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 TPS 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.