

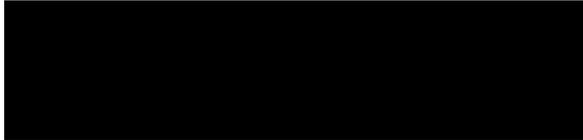
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**U.S. Citizenship
and Immigration
Services**

M1



FILE:



Office: VERMONT SERVICE CENTER

Date: **SEP 06 2005**

[EAC 03 078 52625]

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, Vermont Service Center, and is now before the Administrative Appeals Office (AAO) 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 that he was eligible for late registration.

On appeal, the applicant submits a brief statement and additional documentation.

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 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 properly filed his initial Form I-821, Application for Temporary Protected Status, with the Immigration and Naturalization Service (INS), now Citizenship and Immigration Services (CIS), on January 2, 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 his Form I-821, the applicant indicated that he was born on June 27, 1984, in El Salvador, and that he last entered the United States without inspection on January 5, 2001, at Phoenix, Arizona. In support of his application, the applicant submitted a photocopy of his Salvadoran birth certificate, with English translation.

On March 28, 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 was also requested to submit evidence to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite time periods. In response, the applicant provided two affidavits from acquaintances attesting to his residence and physical presence in the United States. The applicant also submitted a letter indicating that he was filing for TPS as the child of TPS-approved parents.

The director determined that the applicant had failed to establish that he was eligible for late registration and denied the application on August 4, 2003.

On appeal, the applicant submits a photocopy of his mother's Employment Authorization Document (EAD), issued to her, as an eligible TPS applicant, on September 10, 2002. It appears that the applicant is claiming to be eligible for late registration because his mother is currently eligible to be a TPS registrant.

A review of the alien registration file relating to the applicant's mother, [REDACTED] reveals that she filed an initial TPS application on June 15, 2001. At the time of filing her application (EAC 01 212 50659), she indicated that her child, the applicant, was currently residing in El Salvador. The mother's initial TPS application was approved on November 27, 2001.

On October 9, 2002, the applicant's mother filed her first application for annual re-registration for TPS (EAC 03 058 51436 relates). At the time of filing that application, she also indicated that the applicant was currently residing in El Salvador. It was not until the filing of her second application for annual re-registration for TPS (EAC 03 254 52093 relates) that the applicant's mother indicated that the applicant was residing with her in the United States.

Service regulations may allow the child of an alien currently eligible to be a TPS registrant to file an application after the initial registration period; however, the child must have continuously resided in the United States, and been continuously physically present, during the requisite time periods in order to qualify for late registration. Based on the information contained in the alien file relating to the applicant's mother, it appears that the applicant did not enter the United States until after September 30, 2002, the date she signed her first application for annual re-registration (the application that was filed on October 9, 2002). Consequently, it is concluded that the applicant has not submitted sufficient evidence to establish that he has met the criteria described in 8 C.F.R. § 244.2(f)(2)(iv). Therefore, the director's decision will be affirmed and the appeal will be dismissed.

Beyond the decision of the director, as previously noted, the applicant has not submitted sufficient evidence to establish that he satisfies the continuous residence and continuous physical presence requirements described in 8 C.F.R. § 244.2(b) and (c). The applicant also has not submitted an identity document bearing his photograph and/or fingerprint, as required under the provisions of 8 C.F.R. § 299.9(a)(1)(ii) and (iii). For these reasons as well, the application may not be approved.

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. Here, the applicant has not met this burden.

ORDER: The appeal is dismissed.