

**identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy**



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

PUBLIC COPY

M1



FILE: [REDACTED] OFFICE: CALIFORNIA SERVICE CENTER DATE: **AUG 01 2006**
[WAC 05 196 70170]

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.


for Robert P. Wiemann, Chief
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 record reveals that the applicant filed a TPS application during the initial registration period on March 12, 2002, under Citizenship and Immigration Services (CIS) receipt number WAC 02 134 52570. The director denied that application on February 29, 2004, because the applicant had failed to submit sufficient evidence to establish his qualifying continuous residence in the United States since February 13, 2001.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on April 14, 2005, and indicated that he was re-registering for TPS.

The director denied the re-registration application because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS.

On appeal, the applicant asserts that although he was given until March 4, 2004, in which to respond to the director's request for evidence [dated December 4, 2003], on February 29, 2004, he received the director's notice of decision to deny his initial TPS application before he had the chance to mail his package with the requested evidence.

A review of the record indicates that subsequent to the director's February 29, 2004 denial decision, the Service Center received, on March 3, 2004, the applicant's response to the director's notice of request for evidence dated December 4, 2003, requesting that the applicant submit additional evidence to establish continuous residence in the United States during the requisite period. A remand of this case to the director based on a premature denial of the initial application would not overcome the director's decision as the record shows that the applicant furnished, with his response, a copy of the same letter from [REDACTED] that was addressed by [REDACTED] in his February 29, 2004 decision, as lacking credibility. The applicant also furnished with his response: (1) a copy of a statement from M2K Auto Service indicating that the applicant worked for the company as a mechanic helper from September 2000 to February 2001. This employment letter has little evidentiary weight or probative value as it did not provide basic information that is expressly required by 8 C.F.R. § 244.9(a)(2)(i). Specifically, the letter is not in affidavit form, it was not attested to by the employer under penalty of perjury, and it did not provide the address or addresses where the applicant resided during the period of his employment; (2) a Form 1099-MISC income tax statement for the year 2002, and Forms W-2, Wage and Tax Statement, from three different employers for the years 2003. These tax forms only establish the applicant's continuous residence after the date the initial TPS application was filed. Therefore, the record as presently constituted contains insufficient evidence to establish that the applicant has met the criteria for continuous residence in the United States since February 13, 2001.

If the applicant is filing an application as a re-registration, a previous grant of TPS must have been afforded the applicant, as only those individuals who are granted TPS must register annually. In addition, the applicant must continue to maintain the conditions of eligibility. 8 C.F.R. § 244.17.

In this case, the applicant has not previously been granted TPS. Therefore, he is not eligible to re-register for TPS. Consequently, the director's decision to deny the application will be affirmed.

It is noted that the director's decision does not explore the possibility that the applicant was attempting to file a late initial application for TPS instead of an annual re-registration.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an alien 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 § 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.

The initial registration period for El Salvadorans was from March 9, 2001, through September 9, 2002. The record reveals that the applicant filed the current application with CIS on April 14, 2005.

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 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 applicant has failed to provide any evidence to establish that this application should be accepted as a late initial registration under 8 C.F.R. § 244.2(f)(2). Therefore, the application also must 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.