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U.S. Citizenship  
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Services

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FILE:

[WAC 05 223 75173]

OFFICE: CALIFORNIA SERVICE CENTER DATE:

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, 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 claims to be 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 initial 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/her initial TPS application with Citizenship and Immigration Services (CIS) on May 11, 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 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 February 5, 2006, the applicant was requested to submit evidence establishing his eligibility for late initial registration as set forth in 8 C.F.R. § 244.2(f)(2). The applicant was also requested to submit evidence establishing his identity and nationality and his qualifying continuous residence and continuous physical presence in the United States during the requisite periods. The applicant, in response, provided evidence relating to his identity and nationality and his residence and 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 May 8, 2006.

On appeal, the applicant states that he has lived in the United States since July 17, 1993, and he believes that he qualifies for TPS. The applicant explains that he didn't apply for TPS during the initial registration period for Salvadorans because he had a pending asylum application. The applicant claims that he tried to apply for TPS in 2001, but was told that could not apply for another CIS benefit program if his asylum application was still pending. He explains that he later learned that it was still possible to apply for TPS on the basis of a "TPS Good Cause Exemption." The applicant the following evidence:

1. photocopies of Forms I-765, Application for Employment Authorization, dated: January 4, 1997, January 31, 1998, March 9, 1999, April 3, 2000, and April 18, 2001;
2. a photocopy of a notice of intent to deny the applicant's asylum application dated September 5, 1994;

3. a photocopy of an interview appointment notice dated August 5, 1994;
4. a photocopy of a notice acknowledging receipt of the applicant's Form I-589, Request for Asylum in the United States, on June 9, 1994; and,
5. a photocopy of a notice dated July 13, 1994, informing the applicant that preliminary processing of his asylum application had been completed and the case had been transferred to the Anaheim Asylum Office.

The record reveals that the applicant filed his asylum application on June 9, 1994. The application was denied on January 11, 1995, and the applicant was referred for a removal hearing before an Immigration Judge. On that same date, January 11, 1994, a Form I-221, Order to Show Cause and Notice of Hearing, was mailed to the applicant at his address of record but was returned to the Immigration and Naturalization Service, now CIS, as undeliverable mail.

In order to qualify for late initial registration based on a pending asylum application, the applicant must establish that he had a pending asylum application during the initial registration period or that he filed his TPS application within 60 days of the termination of that proceeding. In this case, the applicant's asylum application was denied in 1995, six years prior to the initial registration period for Salvadorans. The applicant did not have a pending asylum application during the initial registration period; therefore, he cannot qualify for late initial registration on that basis. 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.

Beyond the decision of the director, the applicant has also failed to submit sufficient evidence to establish his identity and nationality as set forth at 8 C.F.R. § 244.9(a)(1). 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 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.