



U.S. Citizenship
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JUL 25 2006

FILE:  OFFICE: CALIFORNIA SERVICE CENTER DATE:
[WAC 05 112 70294]

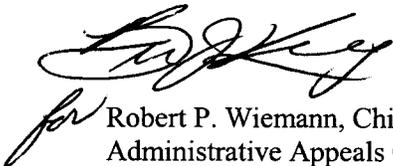
IN RE: Applicant: 

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.


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 August 23, 2002, under Citizenship and Immigration Services (CIS) receipt number WAC 02 264 54308. The director denied that application on February 28, 2008, after determining that the applicant had abandoned his application based on his failure to appear for fingerprinting on September 25, 2002. On July 1, 2004, the director also denied the motion to reopen, filed by the applicant on March 11, 2004, because the motion did not meet one of the applicable requirements set forth in 8 C.F.R. § 103.5(a)(3).

The applicant filed the current Form I-821, Application for Temporary Protected Status, on January 20, 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 states that he received a letter informing him that his case was being denied because the record shows that he has no asylum application pending; however, he does not understand how this is possible since he never applied for asylum, but rather, he is currently under the TPS program. It is noted that the director incorrectly stated on Form I-797C, Notice of Action, dated September 30, 2005, that the applicant's Form I-765, Application for Employment Authorization, filed on January 21, 2005, was based on a pending Form I-589, Request for Asylum in the United States, but that no record was found to establish that the applicant has a pending application for asylum. As maintained by the applicant, the Form I-765 was based on his application for TPS rather than on an application for asylum.

The applicant further asserts that he was subsequently fingerprinted on January 26, 2005. To support his claim, the applicant submits a copy of "DBI TENPRINTER Applicant Information Worksheet (AIW)." The AIW worksheet was date stamped completed on January 26, 2005. It is noted that this fingerprint relates to the applicant's re-registration for TPS filed on January 20, 2005. The record, however, indicates that on August 28, 2002, the applicant was requested to appear for fingerprinting on September 25, 2002. That notice was mailed to the applicant's most recent address provided by the applicant at that time [REDACTED]

[REDACTED] There is no evidence that the notice was returned to CIS as undeliverable.

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 condition 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 January 20, 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.

It is noted that the record of proceeding contains no evidence to establish that the applicant met the criteria for continuous residence in the United States since February 13, 2001, and continuous physical presence since March 9, 2001, as described in 8 C.F.R. § 244.2(b) and (c). Therefore, the application will also 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.