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FILE:



Office: VERMONT SERVICE CENTER

Date: JUN 28 2006

[EAC 05 190 728731]

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, 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 he was eligible for late registration

On appeal, the applicant provides a brief statement and copies of documentation previously submitted.

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 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 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.

The phrase continuously physically present, as defined in 8 C.F.R. § 244.1, means actual physical presence in the United States for the entire period specified in the regulations. An alien shall not be considered to have failed to maintain continuous physical presence in the United States by virtue of brief, casual, and innocent absences as defined within this section.

The phrase continuously resided, as defined in 8 C.F.R. § 244.1, means residing in the United States for the entire period specified in the regulations. An alien shall not be considered to have failed to maintain continuous residence in the United States by reason of a brief, casual and innocent absence as defined within this section or due merely to a brief temporary trip abroad required by emergency or extenuating circumstances outside the control of the alien.

The issue raised by the director to be addressed in this proceeding is whether the applicant is eligible for late registration.

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).

In a notice of intent to deny, dated August 2, 2005, 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 establishing his continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States since March 9, 2001. The applicant was further requested to submit documentation to establish his identity.

The director determined that the applicant did not provide any documentation to address his eligibility for late registration. The director denied the application on September 7, 2005. The applicant was given 30 days to file an appeal (33 days if the notice was received by mail).

The applicant filed an appeal on September 26, 2005

On appeal, the applicant states that it is important for him to obtain TPS so that he can work and support his family.

The applicant has provided no documentary evidence on appeal to establish that he has met any of the criteria for late registration as described in 8 C.F.R. § 244.2(f)(2). Consequently, the director's decision to deny the application for temporary protected status for this reason will be affirmed.

Beyond the decision of the director, the applicant has provided insufficient evidence to establish his continuous residence and continuous physical presence criteria described in 8 C.F.R. § 244.2 (b) and (c). The record contains: affidavits from persons who claim to have known the applicant since 2000, 2001 and 2002; tax records for the year 2003; several documents which contain dates where the year is illegible; a copy of a Statement of Account from Unity Health Care, Inc., dated May 12, 2005; a letter from First Premier Bank, dated May 27, 2005; a copy of a sales receipt from Save N Sound Auto Systems, Inc., dated April 21, 2005; a copy of a Notice of D.C. Tax Due, dated October 2, 2004; a copy of a receipt from Mamagus Corporation, dated April 1, 2004; copies of Western Union money transfers for December 13, 2003, February 7, 2004, February 15, 2004, and February 27, 2004; a copy of a "CREDIT CHECK" from New World Wireless, dated March 20, 2002; a copy of a Sprint bill, dated June 4, 2002; copies of receipts from Gavilan Express, dated November 22, 2001 and November 28, 2003; a letter dated July 26, 2004, a copy of a check from Hy Cite Finance, dated February 1, 2001; a copy of a bill from Comcast dated January 30, 2001; copy of a bill from "Metropolitan Ent," dated January 20, 2001; a copy of a receipt from J.C. Autobahn, dated January 7, 2005; and, a letter from "Ivan Caballero Employer," of Global Multi Services, Inc., which states that the applicant worked as an employee of Global Multi Services, Inc., from February 2001 to July 2002.

The documentation contained in the record is not sufficient in demonstrating the applicant's continuous residence in the United States since February 13, 2001, and his continuous physical presence in the United States since March 9, 2001. The above-mentioned affidavits carry very little weight, and the employee letter from Global Multi Services, Inc., without supporting documentary evidence such as employee records or earnings statements are not sufficient in meeting the burden of proof in these proceedings. *See Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972). The applicant has not established that he has met the continuous residence and continuous physical presence criteria described in 8 C.F.R. § 244.2 (b) and (c). Further, the applicant has not submitted documentation to establish his identity. Therefore, the application must also be denied for these reasons.

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.