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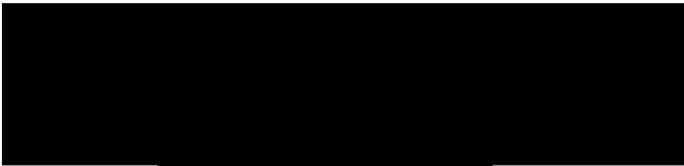
U.S. Department of Homeland Security  
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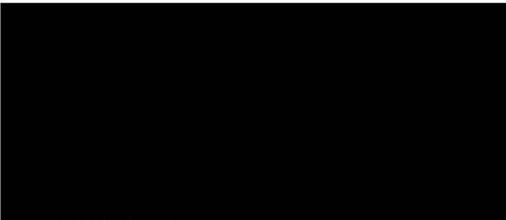
Office: NEBRASKA SERVICE CENTER

Date: JUN 29 2006

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:



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, Nebraska 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 director denied the application because the applicant failed to establish that he was eligible for late registration. The director also found that the applicant had failed to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite time periods.

On appeal, counsel asserts the applicant's claim of eligibility for TPS.

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 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.

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.

Persons applying for TPS offered to El Salvadorans must demonstrate continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States since March 9, 2001. A subsequent extension of the TPS designation has been granted with validity until September 9, 2007, upon the applicant's re-registration during the requisite time period.

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 first issue in this proceeding is whether the applicant has submitted sufficient evidence to establish his continuous residence in the United States since February 13, 2001, and his continuous physical presence in the United States since March 9, 2001.

The applicant was requested on March 24, 2003 to submit evidence establishing his qualifying continuous residence and continuous physical presence in the United States. The applicant submitted documentation in response to the director's request.

The director determined that the applicant had failed to submit sufficient evidence to establish his eligibility for TPS and denied the application on May 12, 2003.

On appeal, counsel reasserts the applicant's claim of eligibility for TPS and submits additional documentation to support the claim.

The applicant has submitted sufficient evidence to establish 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 has submitted as evidence copies of his INS notices, income tax records, letter of employment, pay stubs, bank statements, lease agreement, special warranty deed, rent receipts, loan statement, earnings statement from the Social Security Administration, California identification card, Colorado driver's license, motor vehicles record, documentation of immunization, and EOIR records. The above evidence is sufficiently dated within the given time frames; and therefore, meets the criteria described in 8 C.F.R. § 244.2(b) and (c). Consequently, the director's decision to deny the application for TPS on these grounds will be withdrawn.

The second issue in this proceeding is whether the applicant is eligible for late registration.

The initial registration period for Salvadorans was from March 9, 2001, through September 9, 2002. The record reveals that the applicant filed his application with Citizenship and Immigration Services (CIS), on September 24, 2002.

The record of proceedings confirms that the applicant filed his application after the initial registration period had closed. To qualify for late registration, the applicant must provide evidence that during the initial registration period, he 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 that he 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).

On March 24, 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, in response, provided documentation relating to his residence and physical presence in the United States.

The director determined that the applicant had failed to establish that he was eligible for late registration and denied the application on May 12, 2003.

On appeal, counsel states that the applicant is eligible for late registration because:

[The applicant's] registration was dated 15 days after the deadline for initial registration, but well within the re-registration extension period expiring on November 12, 2002.

[The applicant] is eligible for late initial filing because his September 24, 2002 TPS application was filed within 60 days of the expiration of his work authorization card on August 30, 2002....

Contrary to counsel's claims, the "re-registration period" was not an extension for the filing of initial applications. Rather, its purpose was to allow the filing of re-registration applications by those who had been granted TPS. In this case, the applicant has not previously been granted TPS. Therefore, he is not eligible to re-register for TPS during any re-registration or re-registration extension period.

Further, the expiration of a work authorization card does not toll the time period in which an applicant can file his or her TPS application. It appears that counsel for the applicant is implying that the applicant is eligible for late registration under 8 C.F.R. § 244.2(f)(2)(ii) since he was the beneficiary of an approved Form I-130 filed on his behalf under section 203(a)(2)(A) of the Act. However, individuals who are awaiting preference allocation for an immigrant visa under section 203 of the Act are not eligible for late registration under 8 C.F.R. § 244.2(f)(2).

The applicant has not submitted any evidence to establish that he has met any of the criteria for late registration described in 8 C.F.R. § 244.2(f)(2). Consequently, the director's conclusion that the applicant had failed to establish his eligibility for late registration will be affirmed.

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. The application will be denied for the above reasons, with each considered as an independent and alternative basis for denial.

**ORDER:** The appeal is dismissed.