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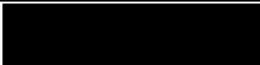
**U.S. Citizenship  
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FILE:



Office: CALIFORNIA SERVICE CENTER

Date: **MAY 04 2006**

[WAC 05 139 80559]

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 (AAO) on appeal. The appeal will be dismissed.

The applicant is a 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 his initial TPS application on April 19, 2001 under CIS receipt number LIN 01 171 50790. The director denied that application for abandonment on January 8, 2003, because the applicant failed to appear for fingerprinting. There is nothing in the record to indicate that the applicant filed a motion to reopen the director's decision. The applicant filed a subsequent TPS application on February 24, 2003 under CIS receipt number LIN 03 114 53394. The director denied that application on July 30, 2003, because the applicant failed to establish his qualifying continuous physical presence in the United States during the requisite periods and his eligibility to file for late initial registration. On September 9, 2003, the applicant filed an appeal from the denial decision. That appeal was treated as motion to reopen and denied by the director on November 13, 2003. The applicant filed a subsequent TPS application on September 15, 2003 under CIS receipt number LIN 03 268 50123. The director denied that application on January 28, 2004, because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS. On March 17, 2005, the applicant filed an appeal from the denial decision. That appeal was treated as a motion to reopen and was dismissed by the director on April 12, 2004. On August 27, 2004, the director issued a notice informing the applicant that he was not eligible to file a re-registration for TPS and returned the application and fee payment to the applicant. On August 25, 2004, the applicant submitted an appeal that was treated as a motion to reopen. The director dismissed that motion on December 15, 2004.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on February 16, 2005.

The director denied the re-registration application because he determined that the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS. However, the applicant indicated that he was filing an initial registration for TPS, not a re-registration.

On appeal, the applicant requests that his case reviewed and approved. The applicant submits evidence previously provided in an attempt to establish his eligibility for TPS.

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 applicant may apply for TPS during the initial registration period, or:

- (f) (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 term *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 term *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 initial registration period for El Salvadorans was from March 9, 2001 through September 9, 2002. The record shows that the applicant filed his initial application on February 16, 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).

On appeal, the applicant states that he is providing evidence that he wishes to be reviewed. According to the applicant, he has seen cases similar to his that have been approved. The applicant also states that he needs to be able to work to help his family in El Salvador. The applicant submits documents previously provided.

The applicant, however, 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.