



U.S. Citizenship
and Immigration
Services

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MM

FILE: [REDACTED]
[WAC 05 229 72363]

Office: California Service Center

Date: **NOV 21 2006**

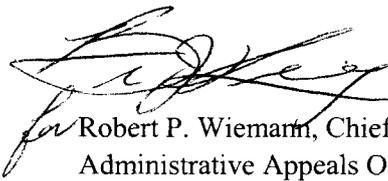
IN RE: Applicant: [REDACTED]

APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254.

ON BEHALF OF APPLICANT: 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 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 late initial TPS application on May 17, 2005, under CIS receipt number WAC 05 229 72363. The director denied the application on May 26, 2006, because the applicant failed to establish that he was eligible for late initial registration 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 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 initial application with Citizenship and Immigration Services (CIS) on May 17, 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).

With his TPS application, the applicant submitted a copy of: 1) the 3 pages, including the biographic page, of his El Salvador passport, issued on December 4, 1992; 2) the biographic page of his El Salvador renewal passport, issued February 18, 2005; 3) a California driver license issued on September 27, 1993; 4) a Louisiana driver's license issued on January 12, 1995; 5) a Virginia driver's license issued prior to 1994 (issuance date illegible); 6) a [REDACTED] issued on August 30, 1994; 7) a Louisiana vehicle Certificate of Registration and receipt, dated February 14, 1997; 8) a travel itinerary from [REDACTED] dated August 10, 1992; 9) a travel itinerary from [REDACTED] dated March 23, 1993; and 10) a CIS Receipt Notice, issued June 22, 2001, showing the applicant as the beneficiary (brother or sister) of a U.S. citizen on an I-130 Petition for relative, Fiance (e), or Orphan.

On May 4, 2006, the applicant was provided the opportunity to submit evidence establishing his eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2). With his response to the notice of intent to deny, the applicant resubmitted his identity documents, and he submitted 2 pay stubs, one issued on December 24, 2000, and the other on January 19, 2001; and a reference letter from his [REDACTED] stating that the applicant was employed by the company from December 11, 2000 through July 22, 2001. The director determined that the applicant failed to submit evidence to establish eligibility for late initial registration for TPS. The director, therefore, denied the application.

On appeal, the applicant states only that he is providing more evidence to establish continuous residence. In an attempt to establish his qualifying residence and physical presence in the United States, the applicant resubmits the evidence that he submitted with his application and with his response to the notice of intent to deny; 2 additional references from employers; 14 U.S. Postal Money Order receipts, issued between 1992 and 1998; an

undated money transfer/refund request; and the front page of a Money Order check, issued August 19, 2001; and a copy of his passport, issued on December 4, 1992.

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). It appears that the applicant is implying that he is eligible for late registration under 8 C.F.R. § 244.2(f)(2)(ii) since he is the beneficiary of a filed Form I-130 on his behalf under section 203(a)(4) 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). Consequently, the director's decision to deny the application for TPS will be affirmed.

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.