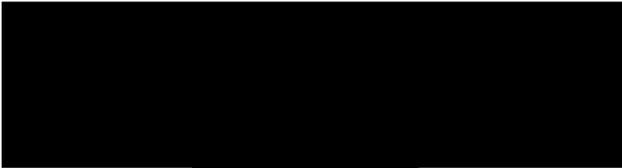


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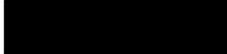
U.S. Citizenship  
and Immigration  
Services

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FILE:



Office: CALIFORNIA SERVICE CENTER

Date **OCT 03 2006**

[WAC 05 141 80509]

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 a TPS application during the initial registration period on April 16, 2001, under Citizenship and Immigration Services (CIS) receipt number LIN 01 169 50725. The Director, Nebraska Service Center, denied that application for abandonment on December 4, 2001, because the applicant failed to respond to a request for evidence to establish his continuous residence and continuous physical presence in the United States during the qualifying period. The director also determined that the applicant failed to provide photo identification. There is nothing in the record to indicate that the applicant filed a motion to reopen the director's decision. On October 31, 2002, the applicant filed a subsequent TPS application under CIS receipt number LIN 03 032 50391. The Director, Nebraska Service Center, denied that application on June 18, 2003, because the applicant failed to establish his qualifying continuous physical presence in the United States during the requisite period and his eligibility to file for late initial registration. On June 30, 2003, the applicant filed an appeal from the denial decision. That appeal was treated as a motion to reopen and was denied by the Director, Nebraska Service Center, on December 18, 2003. There is nothing in the record to indicate that the applicant appealed the director's decision.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on February 18, 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 has responded on four different occasions to notices from CIS. According to the applicant, he needs to continue working to assist his family in El Salvador. The applicant also submits evidence in an attempt to establish continuous residence and continuous physical presence in the United States during the qualifying period. In addition, the applicant submits evidence in an attempt to establish that he had been fingerprinted.

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 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 February 18, 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 has responded on four occasions to letters from CIS either denying his application or requesting additional evidence. The applicant asserts that this stems from a letter sent to advise him of his fingerprint appointment, which the applicant says was sent to an incorrect address. According to the applicant, he has since attempted to supply receipts, pay stubs and identification to establish his presence in the United States during the initial registration period. The applicant also states that he needs to continue working to assist his family in El Salvador. The applicant also submits evidence in an attempt to establish continuous residence and continuous physical presence in the United States during the qualifying period. However, this

does not mitigate the applicant's failure to file his TPS application within the initial registration period. In addition, the applicant submits evidence that he was fingerprinted.

The applicant incorrectly identifies his fingerprints as the basis for the director's decision. The application was initially denied because he failed to establish continuous residence and continuous physical presence in the United States during the qualifying period. Another application was subsequently denied because the applicant failed to establish continuous physical presence in the United States during the qualifying period and that he was eligible for late registration.

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.

Beyond the decision of the director, it is noted that the applicant has provided insufficient evidence to establish his qualifying continuous residence since February 13, 2001 and continuous physical presence from March 9, 2001 to the filing date of the TPS application. Therefore, the application must be denied for these reasons as well.

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.