

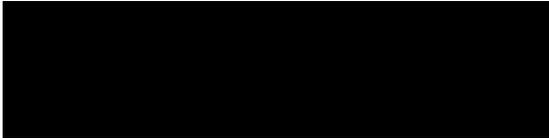


U.S. Citizenship  
and Immigration  
Services

identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy

PUBLIC COPY

M1



FILE:



Office: NEBRASKA SERVICE CENTER

Date: OCT 03 2006

[LIN 03 273 52022]

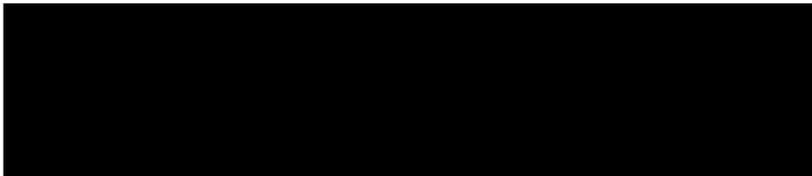
IN RE:

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:



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*

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 he was eligible for late registration. The director also denied the application because the applicant failed to establish his date of entry to the United States, and his qualifying continuous residence and continuous physical presence in the United States. In addition, the director denied the application because the applicant failed to provide photo identification. It is noted that the applicant was 10 years old at the time he submitted his initial TPS application.

On appeal, counsel, on behalf of the applicant, asserts the applicant's claim of eligibility for TPS and submits evidence in support of his claim.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an applicant is eligible for TPS 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 § 244.3;
- (e) Is not ineligible under § 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 September 15, 2003.

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 October 17, 2003, the applicant was requested to submit evidence establishing his eligibility for TPS late registration as set forth in 8 C.F.R. § 244.2(f)(2). The applicant was also requested to submit evidence establishing his date of entry to the United States as of February 13, 2001, his continuous residence in the United States since February 13, 2001, and his continuous physical presence in the United States since March 9, 2001. In addition, the applicant was requested to submit a copy of his current photo identification document. The record did not contain a response from the applicant; therefore, the director denied the application on February 25, 2004. It is noted that the director's October 17, 2003 request was sent to the applicant's last known address at [REDACTED] however, it was returned to the Service as "Attempted Known."

On appeal, counsel, on behalf of the applicant, states that the applicant qualifies for TPS late registration as a child of an alien who has been granted TPS.

Counsel also provides the following documentation, along with the appeal, in support of the applicant's eligibility for TPS: a copy of the Employment Authorization card of the applicant's mother, [REDACTED], bearing the "A12" eligibility category; a letter from the Service, dated December 23, 2003, indicating that the Form I-821 of the applicant's mother was approved on July 9, 2003; a letter from the Service dated January 22, 2004, regarding the receipt of [REDACTED]'s Form I-765, Application for Employment Authorization; copies of the applicant's El Salvadoran passport; copies of the applicant's birth certificate along with an English translation; a letter dated December 19, 2003, from [REDACTED] Assistant Principal at

George Armstrong School of International Studies in Chicago, Illinois; a copy of the applicant's school record; a letter dated December 15, 2003, from [REDACTED], President of Commercial Partners Realty, Ltd.; and, a copy of the applicant's Certificate of Child Health Examination from St. Frances Community Health Center in Chicago, Illinois.

The first issue in this proceeding concerns the applicant's photo identity. On appeal, counsel provides a copy of the biographical pages of the applicant's El Salvadoran passport that satisfies the photo identity requirements for TPS. 8 C.F.R. § 244.9.

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

The record of proceedings confirms that the applicant filed his application after the initial registration period had closed. The initial registration period for Salvadorans was from March 9, 2001, through September 9, 2002. 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 he or she 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).

A review of the Employment Authorization card submitted by counsel on appeal reflects that the applicant's mother is currently an eligible TPS registrant. In addition, a review of the CIS' computer systems reflect that the TPS application for the applicant's mother was approved on July 9, 2003. The applicant has submitted sufficient evidence to establish a qualifying relationship to be eligible for late registration as described in 8 C.F.R. § 244.2(f)(2).

However, in addition to meeting the criteria for late registration, the applicant must also establish his qualifying continuous residence in the United States since February 13, 2001, and his continuous physical presence in the United States since March 9, 2001, to the date of filing his application.

The letter from [REDACTED] regarding the applicant's enrollment in the George Armstrong School of International Students, indicates that that applicant's mother had attempted to register her children in February 2001; however, she was unable to enroll them until the fall semester in September 2001. The statements from [REDACTED] are not supported by corroborative evidence, nor did she specify which of the applicant's children attempted to enroll at that time. In addition, although the letter from [REDACTED] indicates that the applicant had resided at [REDACTED] since February 1, 2001, it does not explain the origin of the information to which [REDACTED] attests.

The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. 8 C.F.R. § 244.9(b). It is determined that the documentation submitted by the applicant is not sufficient to establish that he satisfies the continuous residence and continuous physical presence requirements described in 8 C.F.R. §§ 244.2(b) and (c). Therefore, the applicant remains ineligible and the director's decision 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.