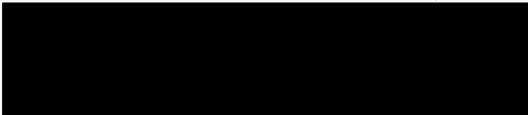


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U.S. Citizenship
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FILE: [REDACTED]
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Office: CALIFORNIA SERVICE CENTER

Date: OCT 30 2006

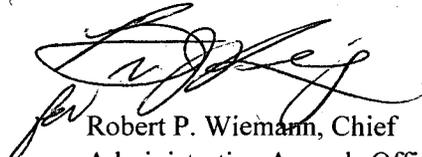
IN RE: Applicant: [REDACTED]

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 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 determined that the applicant failed to establish he: 1) had continuously resided in the United States since February 13, 2001; 2) had been continuously physically present in the United States since March 9, 2001; and 3) was eligible for late registration. The director, therefore, denied the application.

On appeal, the applicant states that he a national from El Salvador who arrived in the United States on May 21, 1992 and is eligible for TPS. The applicant also submits evidence in an attempt to establish continuous residence and continuous physical presence in the United States during the qualifying period.

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 as designated by the Attorney General is eligible for temporary protected status 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 section 244.3;
- (e) Is not ineligible under 8 C.F.R. § 244.4; and
- (f)
 - (1) Registers for TPS 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.

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.

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 that they have continuously resided in the United States since February 13, 2001, and that they have been continuously physically present in the United States since March 9, 2001. On July 9, 2002, the Attorney General announced an extension of the TPS designation until September 9, 2003. Subsequent extensions of the TPS designation have been granted, with the latest extension granted until September 9, 2007, upon the applicant's re-registration during the requisite period.

The initial registration period for El Salvadorans was from March 9, 2001 through September 9, 2002. The record shows that the applicant filed this application on May 16, 2005.

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 Citizenship and Immigration Services (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 is eligible for late registration.

The record of proceeding 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 from March 9, 2001 through September 9, 2002, he fell within the provisions described in 8 C.F.R. § 244.2(f)(2) (listed above). If the qualifying condition or application has expired or been terminated, the individual must file within a 60-day period immediately following the expiration or termination of the qualifying condition in order to be considered for the late initial registration. 8 C.F.R. § 244.2(g).

On February 27, 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). The applicant was also requested to submit evidence establishing his nationality and identity, his date of entry and continuous residence in the United States since February 13, 2001 and his continuous physical presence in the United States from March 9, 2001 to the date of filing the application. The applicant, in response, provided evidence in an attempt to establish continuous

residence and continuous physical presence during the qualifying period. He did not present evidence of his eligibility for late registration. Therefore, the director denied the application.

On appeal, the applicant states that he is a national of El Salvador and arrived in the United States on or about May 21, 1992. According to the applicant, he was waiting for a response to his asylum application during the initial registration period and did not know he was eligible for TPS. The applicant also states that he has been living with [REDACTED] since 2000, and he is eligible for TPS. In addition, the applicant submits evidence in an attempt to establish his nationality and identity, and his continuous residence and 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. While an applicant's asylum application technically renders him eligible for late registration, regulations at 8 C.F.R. § 244.2(g) also require a late registration to be filed with a 60-day period immediately following the expiration or termination of conditions described in 8 C.F.R. 244.2(f)(2). CIS records indicate that the asylum application was administratively closed on September 5, 1998 and was later denied as abandoned by the Immigration Judge on March 31, 1999. The applicant's 60-day period for late registration expired on May 31, 1999, almost 24 months before the beginning of the initial registration period from March 9, 2001 through September 9, 2002. The applicant filed his TPS application on May 16, 2005, almost three years after the end of the registration period and his 60-day period for late registration.

In addition, the applicant implies that he has a common-law relationship with Ms. [REDACTED] which renders him eligible for TPS as the spouse of a TPS-eligible alien. Regulations may allow spouses of aliens who are TPS-eligible to file applications after the initial registration period had closed. However, in this case, there is no evidence that the applicant and Ms. [REDACTED] were in a recognized common-law marriage. Furthermore, on their respective applications, the applicant and Ms. [REDACTED] list their marital status as "single." Therefore, the applicant is not eligible for TPS as the spouse of a TPS-eligible alien.

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 failed to establish his eligibility for late registration will be affirmed.

The second and third issues in this proceeding are whether the applicant has established his continuous residence in the United States since February 13, 2001, and his continuous physical presence in the United States since March 9, 2001.

As stated above, the applicant was requested on February 27, 2006 to submit evidence establishing his qualifying continuous residence and continuous physical presence in the United States. In response, the applicant submitted the following documentation:

1. A copy of his birth certificate, with English translation, a copy of his El Salvador Personal Identification Card, "Cedula", a copy of a State of North Carolina Driver License issued on November 3, 2003, and a copy of a State of California Identification Card issued on February 3, 1994.
2. Copies of his arrest records indicating arrests on March 6, 1998, April 1, 2002, and January 4, 2003.
3. Copies of 1993 and 1996 Form W-2, Wage and Tax Statements and a copy of a pay stub from Stencil Painting & Services, Inc., dated November 9, 2001.

4. A copy of an Allstate Automobile Insurance Bill with a due date of December 16, 2003, copies of payment statements from [REDACTED] with monthly due dates from May 18, 1998, to August 18, 1998, and a copy of a bill from Dish Network dated November 26, 2003.
5. A copy of a Form I-797 Approval Notice dated August 14, 1992.

The director concluded that the applicant had failed to establish his qualifying residence and physical presence in the United States during the requisite periods and denied the application. On appeal, the applicant submits:

6. A statement from [REDACTED]
7. Copies of TPS and employment authorization applications for [REDACTED]
8. A copy of the first page of the applicant's Form I-589, Request for Asylum in the United States, and a copy of a Form I-765, Application for Employment Authorization, and Form G-325 A, Biographic Information, both dated June 17, 1992.
9. Copies of tax documents for 1992, 1993, 1996, 2004 and 2005.
10. Copies of payment statements from [REDACTED] with monthly due dates from September 18, 1998 to May 18, 2000.
11. Copies of pay stubs from [REDACTED] dated November 23, 2001, February 15, 2002, March 1, 2002, and June 28, 2002, March 28, 2003, January 10, 2003, April 25, 2003, May 16, 2003 and from [REDACTED] dated June 4, 2003 and January 12, 2006.
12. A copy of a Traffic Citation dated on January 14, 2003.
13. A copy of a North Carolina Division of Motor Vehicles Receipt for Plate and/or Sticker dated October 31, 2005, a copy of a State of North Carolina Registration Card issued on August 20, 2003, a copy of a Vehicle Tax Bill dated January 16, 2006, and a copy of a State of North Carolina Driver License issued on July 19, 2002.
14. A copy a Residential Lease Agreement dated September 17, 2003, a copy of a bill of October 20, 2003, and a copy of a bill from Dish Network dated October 20, 2004.

Ms. [REDACTED] Secretary for [REDACTED] states that her company employed the applicant for two years. However, the letter was dated June 7, 2006. Consequently, Ms. [REDACTED] can only attest to the applicant's presence in the United States since 2004. Furthermore, the statement has little evidentiary weight or probative value as it does not provide basic information that is expressly required by 8 C.F.R. § 244.9(a)(2)(i). Specifically, the affiant does not provide the address where the applicant resided during the period of his employment. It is further noted that the affiant did not indicate the applicant's duties of employment. The documentation from Ms.

Guzman was discussed above. The tax documents dated 1992, 1993, 1996, 2004, and 2005 indicate the applicant was present in the United States in those years. However, these documents alone cannot establish the applicant's continuous residence and continuous physical presence in the United States during the qualifying period. Of the remaining evidence submitted on appeal, one of the pay stubs from Stancil Painting is dated November 23, 2001, and is the earliest date presented, on appeal, as evidence of the applicant's presence in the United States during the requisite period.

The applicant has not submitted sufficient evidence to establish his qualifying residence since February 13, 2001, and his continuous physical presence in the United States since March 9, 2001. He has, therefore, failed to establish that he has met the criteria described in 8 C.F.R. § 244.2(b) and (c). Consequently, the director's decision to deny the application for temporary protected status on these grounds will also be affirmed.

The record of proceeding reflects that on March 31, 1999, an immigration judge ordered the applicant removed from the United States to El Salvador. A Warrant of Removal/Deportation, Form I-205, was issued on April 1, 1999. The applicant failed to appear at the Los Angeles, California district office on May 5, 1999, for his enforced departure.

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.