

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy



U.S. Citizenship
and Immigration
Services

PUBLIC COPY



71

FILE:



Office: CALIFORNIA SERVICE CENTER

Date: SEP 01 2006

[WAC 05 153 78374]

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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

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 and national 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 May 21, 2001, under CIS receipt number SRC 01 208 54531. On December 6, 2002, the applicant was requested to submit a legible copy of his photo identification. The Director, Texas Service Center (TSC), denied that application on February 10, 2003, due to abandonment after determining that the record did not contain a response from the applicant.

The applicant filed the instant Form I-821, Application for Temporary Protected Status, on March 2, 2005.

The director denied the instant application because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration 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 initial registration period for Salvadorans was from March 9, 2001, through September 9, 2002. The record reveals that the applicant filed the instant application with Citizenship and Immigration Services (CIS) on March 2, 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).

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.

Persons applying for TPS offered to El Salvadorans must demonstrate continuous residence in the United States since February 13, 2001, and continuous physical presence 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 has been granted by the Secretary of the Department of Homeland Security, with validity until March 9, 2007, upon the applicant's re-registration during the requisite time period.

On appeal, the applicant asserts his eligibility for TPS. The applicant further states that he did not receive any notice for additional information. The applicant also states that he has resided at 11559 Chesswood Dr., Houston, Texas.

In addition, the applicant submits on appeal the following: copies of his El Salvadoran passport, employment authorization card, Social Security card, Texas Drivers License expiring on May 18, 2010, and Texas Identification Card with an expiration date of May 18, 2008. The applicant also submits an affidavit dated August 27, 2005, from [REDACTED] who stated that he has known the applicant since December 12, 2000; an affidavit dated August 25, 2005, from [REDACTED] Human Resources of M.A.G.A. Painting Services, who stated that she has known the applicant for more than one year; a copy of a generic rent receipt dated March 17, 2001; copies of his IRS Form W-2, Wage and Tax Statements for the years 2001 and 2003; copies of check stubs from [REDACTED] DBA Maga Painting Service, dated July 15, 2002, October 30, 2002, December 15, 2002, February 15, 2003, June 15, 2003, July 30, 2003, March 5, 2004, April 15, 2004,

September 15, 2004, June 30, 2004, December 31, 2004, January 30, 2005, February 15, 2005, March 1, 2005, May 15, 2005, and August 15, 2005; a copy of an account summary dated December 1, 2004, from Comcast; a copy of his monthly mortgage statement dated March 22, 2006, from Wells Fargo Home Mortgage; a copy of a TravelersExpress money order dated August 29, 2005, and an copy of the envelope bearing a postmark of October 24, 2001.

The applicant, on appeal, submits evidence to establish his identity, the sole basis of the TSC director's initial decision; however, the record does not establish the applicant's qualifying continuous residence and continuous physical presence in the United States during the requisite time periods. The statements from ██████████ ██████████ not supported by credible corroborative evidence. Affidavits from acquaintances are not, by themselves, persuasive evidence of continuous residence and continuous physical presence in the United States. There is a significant gap in sufficient evidence during the beginning of the requisite time periods for continuous residence and continuous physical presence in the United States, specifically from February 13, 2001 to March 17, 2001, the date of the rental receipt.

The applicant has not submitted sufficient credible evidence to establish his qualifying continuous residence in the United States since February 13, 2001, or 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). Therefore, the application will also be denied for these reasons.

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.