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FILE: [REDACTED] OFFICE: CALIFORNIA SERVICE CENTER DATE: SEP 27 2006
[WAC 05 203 79387]

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.

A handwritten signature in black ink, appearing to read "R. 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 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 record reveals that the applicant originally filed a TPS application during the initial registration period on August 5, 2002, under Citizenship and Immigration Services (CIS) receipt number LIN 02 254 50064. The Director, Nebraska Service Center (NSC) denied that application on January 18, 2003, because evidence furnished by the applicant in response to a request for additional evidence dated November 5, 2002, was insufficient to establish continuous residence in the United States since February 13, 2001, and continuous physical presence since March 9, 2002. Although the applicant was advised that he could appeal the director's decision by filing a completed Form I-290B, Notice of Appeal to the Administrative Appeals Office, within 30 days of the director's decision, the record does not contain evidence that the applicant filed a Form I-290B. The applicant filed a subsequent TPS application on March 3, 2003, under CIS receipt number LIN 03 121 51230. The Director, NSC, denied that application on June 17, 2003, after determining that the evidence furnished by the applicant, in response to the notice of intent to deny dated April 1, 2003, was insufficient to establish: (1) eligibility for late initial registration; (2) continuous residence since February 13, 2001, and continuous physical presence since March 9, 2002. On July 23, 2003, the applicant filed an appeal from the denial decision. Because the appeal was untimely filed, the appeal was treated as a motion to reopen. After a complete review of the record of proceeding, including the motion, the Director, NSC, determined that the grounds of denial had not been overcome. The director, therefore, affirmed his previous decision and denied the application on August 22, 2003.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on April 21, 2005, and indicated that this is his "first application to register for Temporary Protected Status (TPS)." The Director, California Service Center, treated the application as a re-registration application and determined that because the applicant's initial TPS application had been denied, the applicant was not eligible to apply for re-registration for TPS; therefore, the director denied the application on January 12, 2006.

Accordingly, this application will be treated as the applicant's "first application" to register for TPS.

On appeal, the applicant asserts that he does not know why his application was denied on August 22, 2003, because he never received any notice of decision or any notice requesting more evidence. He submits additional evidence, including evidence previously furnished and addressed by the Director, NSC.

A review of the record of proceeding indicates that the request for additional evidence dated November 5, 2002, and the NSC director's notice of decision to deny the initial application [LIN 02 254 50064] dated January 18, 2003, were both mailed to the applicant's most recent address at that time [REDACTED]

[REDACTED] There is no evidence in the record that the applicant had advised CIS of a change of his address, nor is there evidence that the notices were returned to CIS as undeliverable. Additionally, the record indicates that the intent to deny dated April 1, 2003, and the NSC director's notice of decision to deny the application [LIN 03 121 51230] dated June 17, 2003, were both mailed to the applicant's most recent address at that time [REDACTED]. Despite the applicant's assertion, the applicant did appeal this decision of the NSC director on July 23, 2003; the director treated the appeal as a motion to reopen; and the application was ultimately denied on August 22, 2003.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an alien who is a national of a foreign state 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 § 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 condition 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 April 21, 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 furnished, on appeal, evidence in an attempt to establish residence and physical presence in the United States. The evidence furnished, however, does not mitigate the applicant's failure to file his Application for Temporary Protected Status within the initial registration period. 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 decision to deny the TPS application will be affirmed.

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.