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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED] Office: VERMONT SERVICE CENTER
[EAC 03 252 54745]

Date: **AUG 02 2007**

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:

[REDACTED]

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, Vermont Service Center (VSC), 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 director denied the application because the applicant failed to establish that he was eligible for late registration.

On appeal, counsel for the applicant submits a brief statement and additional documentation.

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 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.

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 Form I-821, Application for Temporary Protected Status, with Citizenship and Immigration Services (CIS) on September 10, 2003, more than one year after the initial registration period had ended.

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 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 burden of proof the applicant must provide supporting documentary evidence of eligibility apart from his own statements. 8 C.F.R. § 244.9(b).

On September 23, 2003, the director requested the applicant to submit evidence establishing his eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2). The director also requested the applicant to submit evidence establish his qualifying continuous residence and continuous physical presence in the United States during the requisite time periods. In response, counsel for the applicant submitted documentation relating to the applicant's residence and physical presence in the United States. Counsel also submitted a letter stating that the applicant qualified for late registration as the child of an alien, [REDACTED] currently eligible to be a TPS registrant.

The director noted that the TPS application of the applicant's father had been denied and was under appeal. Since the applicant's father's TPS application had been denied, the director determined that the applicant had failed to establish that he was eligible for late registration. The director denied the applicant's TPS application on March 5, 2004.

On appeal, counsel asserts that the applicant qualifies for TPS because his father had been granted a renewal of his employment authorization pending the appeal of the denial of his TPS application.

A review of the alien registration file relating to the applicant's father reflects that he filed a Form I-821, Application for Temporary Protected Status, on May 21, 2001. That application was denied on May 9, 2003, and an appeal from that decision was dismissed by the AAO on June 29, 2005. A motion to reopen that decision was filed on September 1, 2005. A decision on the father's motion to reopen will be provided under separate cover.

Based on a review of the record, the applicant's father is not an alien currently eligible to be a TPS registrant. The fact that he was granted employment authorization during the pendency of his appeal, and/or a subsequent motion to reopen, does not render him eligible for TPS. Since the applicant, during the initial registration period, was not the child of an alien currently eligible to be a TPS registrant, he is not eligible for late registration under the provisions of 8 C.F.R. § 244.2(f)(2)(iv). Consequently, the director's decision to deny the application for Temporary Protected Status will be affirmed.

There are discrepancies noted in the applicant's claimed date of entry into the United States. The applicant claims to have entered the United States in December 2000. However, at the time of filing his initial Form I-821 on May 21, 2001, the applicant's father claimed that the applicant was residing in El Salvador. It was not until September 15, 2003, when filing an application for employment authorization, that the applicant's father claimed that the applicant was living in the United States. These discrepancies have not been explained and call into question the applicant's ability to document the requirements under the statute and regulations. Doubt cast on any aspect of the evidence as submitted may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. Furthermore, it is incumbent on the applicant to resolve any inconsistencies in the record by independent objective evidence; any attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582. (Comm. 1988).

It is concluded that, beyond the decision of the director, the applicant has not submitted sufficient credible evidence 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 application must 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.