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U.S. Department of Homeland Security  
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Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

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FILE:



[EAC 05 312 70067]

Office: VERMONT SERVICE CENTER

Date:

AUG 24 2007

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 Vermont Service Center. 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, 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 applying for 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 initial registration. The director also found that the applicant had not established that he had been continuously physically present in this country since March 9, 2001.

On appeal, the applicant states that he is submitting a mail received certification to show that his first application for TPS (Form I-821 was received by the BCIS on June 11, 2002. The applicant argues that his passport was not issued to him in the country of El Salvador, but in the Salvador Embassy (Consulate office) and that this document evidences his Salvadorian citizenship and does not establish that he did not enter the United States on May 1, 1999 as he indicated on his application.

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 in the United States since March 9, 2001. The initial registration period for El Salvadorans was from March 9, 2001, through September 9, 2002. The record shows that the applicant filed his application with Citizenship and Immigration Services on August 8, 2005.

To qualify for late registration, an applicant must provide evidence that during the initial registration period, he or she fell within at least one of the provisions described in 8 C.F.R. § 244.2(f)(2) above.

On June 2, 2006, the applicant was requested to submit evidence establishing his eligibility for late registration as set forth in the regulations at 8 C.F.R. § 244.2(f)(2). The applicant was also requested to submit evidence establishing his continuous residence and continuous physical presence in the United States. The applicant, in response, provided a statement dated June 29, 2006, indicating that he was unable to provide evidence satisfying the continuous residence and continuous physical presence requirements because he entered the United States on May 1, 2001, through the Arizona border. However, he did not submit any evidence to establish that he was eligible for late initial registration.

On appeal, the applicant submits a copy of a U.S. Postal Service Form 3801, Domestic Return Receipt, showing that Article Number [REDACTED] was received by USINS on June 11, 2002. However the Form 3801 submitted for consideration is only the front side of that document and does not reflect his name and address which is customarily listed on the reverse. The record does not reflect that the applicant filed a Form I-821, Application for Temporary Protected Status, on June 11, 2002. Additionally, he indicated on the Form I-821 that he filed on August 8, 2005 that it was his first application.

The documentation submitted 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 the regulations at 8 C.F.R. § 244.2(f)(2). Consequently, the director's decision to deny the application for TPS is affirmed.

The record contains a copy of the applicant's Republic of El Salvador passport. On appeal, the applicant states that it was issued to him by a Salvador Embassy (Consulate office) in the United States. However, he has not submitted any evidence to support this assertion. The passport, itself, indicates that it was issued to him in

El Salvador on June 3, 2002. Furthermore, the applicant, himself, has stated that he did not enter the United States until May 1, 2001. Therefore, he could not have been in continuous residence in the United States since February 13, 2001. After review of the record, it is determined that the applicant has not provided sufficient evidence establishing his continuous residence and continuous physical presence during the required time period. 8 C.F.R. §§ 244.2 (b) and (c). Therefore, the director's determination is affirmed for these additional 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 cited 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.