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U.S. Citizenship  
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FILE:



OFFICE: Vermont Service Center

DATE:

AUG 27 2007

[EAC 05 118 71578]

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.

Robert P. Wienmann, Chief  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, Vermont Service Center (VSC). It is now on appeal before the Administrative Appeals Office (AAO). 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 on the grounds that the applicant failed to establish that he is eligible for late registration and that he has been continuously physically present in the United States since March 9, 2001.

On appeal the applicant asserts that he entered the United States on January 15, 2001, and submits a letter from a church pastor.

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 TPS only if such alien establishes that he or she:

- (a) Is a national of a 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 Temporary Protected Status 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.

The phrase 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.

The phrase 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.

El Salvadoran nationals applying for TPS 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 El Salvadorans was from March 9, 2001, through September 9, 2002. The applicant filed his initial TPS application at the VSC on January 17, 2005 – nearly two and one-half years after the close of the initial registration period.

To qualify for late registration, the applicant must provide evidence that during the initial registration period she satisfied at least one of the criteria enumerated 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. *See* 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. *See* 8 C.F.R. § 244.9(b).

On April 19, 2006, the applicant was requested to submit evidence establishing his eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2), as well as documentary evidence of his continuous residence in the United States since February 13, 2001, and his continuous physical presence in the United States since March 9, 2001. In response the applicant, who claims to have entered the United States illegally on January 15, 2001, submitted a series of earnings statements, tax returns, and other documents from the years 2001 to 2005.

In a Notice of Decision issued on July 27, 2006, the director determined that the evidence submitted by the applicant failed to establish his eligibility for TPS. In particular, the director found that the applicant provided no evidence of his eligibility for late registration and insufficient evidence that he met the continuous physical presence requirement for TPS applicants from El Salvador.

On appeal, the applicant reiterates his contention that he entered the United States on January 15, 2001, and submits a letter from the Associate [REDACTED] Angeles, California, dated August 10, 2006, stating that the applicant has been coming to the church since 2001. The applicant does not address the issue of his late filing.

Thus, the record still contains no evidence that the applicant – whose TPS application was filed nearly two and one-half years after the close of the initial registration period for El Salvadoran nationals – is eligible for late registration under any of the criteria enumerated at 8 C.F.R. § 244.2(f)(2). Accordingly, the director's denial of the application on this ground will be affirmed.

The AAO also concurs with the director that the evidence of record is insufficient to show that the applicant has been continuously physically present in the United States since March 9, 2001, as required for TPS applicants from El Salvador under 8 C.F.R. § 244.2(b). None of the documentation submitted by the applicant dates from before 2002, and demonstrates that he was physically present in the United States from March 2001 onward. The earliest documents in the record are the applicant's federal and state tax returns for the year 2001, which would ordinarily be prepared in early 2002, though neither of the forms submitted by the applicant bears a date. The AAO concludes that the applicant has not established his continuous physical presence in the United States since March 9, 2001, as required for TPS applicants from El Salvador. Accordingly, the director's denial of the application will be affirmed on this ground as well.

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 TPS 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 that burden.

**ORDER:** The appeal is dismissed.