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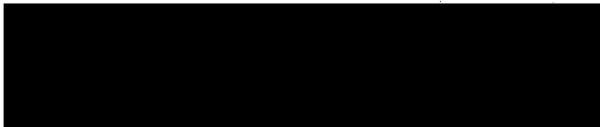
U.S. Department of Homeland Security
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Washington, DC 20529



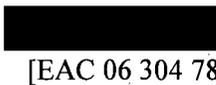
U.S. Citizenship
and Immigration
Services

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FILE:



[EAC 06 304 78977]

Office: VERMONT SERVICE CENTER

Date:

DEC 18 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.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The initial application was denied by the Director, California Service Center (CSC). A subsequent application for re-registration was denied by the Director, Vermont Service Center (VSC), and is currently before the Administrative Appeals Office (AAO), on appeal. The appeal will be sustained.

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 applicant filed an initial application Form I-821, Application for Temporary Protected Status, on January 24, 2005, under receipt number WAC 05 116 70606 after the initial registration period had closed. The CSC Director conceded that the applicant had provided sufficient evidence to establish continuous residence and continuous physical presence during the required period but denied the application on April 19, 2006, after determining that he had failed to establish he was eligible for late initial registration.

The applicant filed a subsequent Form I-821 on May 11, 2005, under receipt number EAC 06 304 78977. The VSC Director denied the application on February 1, 2007 after determining that the applicant had failed to establish he was eligible for late initial registration. The VSC Director affirmed what he said was the CSC Director's determination that the applicant had failed to establish continuous residence and continuous physical presence during the required period. However, as stated above, the CSC Director conceded that the applicant had provided sufficient evidence of continuous residence and continuous physical presence during the required period. Based upon a review of the file, AAO concurs with the CSC Director's earlier determination that the applicant has provided sufficient evidence of continuous presence and continuous physical presence during the required period.

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.

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.

The applicant's and his wife's record [REDACTED] reflect that they were married on July 8, 1994 in El Salvador and that his spouse is currently eligible to be and is a TPS recipient.

The applicant has established that he has met the of the criteria for late registration described in the regulations at 8 C.F.R. § 244.2(f)(2)(iv). Therefore, the VSC Director's decision will be withdrawn and the application will be approved.

An alien applying for temporary protected status has the burden of proving that he or she meets the above requirements and is eligible under the provisions of section 244 of the Act. The applicant has met this burden.

ORDER: The appeal is sustained and the application is approved.