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

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FILE: [REDACTED] OFFICE: CALIFORNIA SERVICE CENTER DATE: DEC 26 2007
[WAC 03 057 53569]

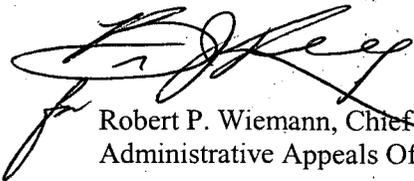
IN RE: Applicant: [REDACTED]

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.


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 claims to be 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 director denied the application because the applicant had "failed to register in a timely manner."

On appeal, the applicant submits a statement and additional evidence.

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 parole; 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 term *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.

The term *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.

Persons applying for TPS offered to El Salvadorans must demonstrate that they have continuously resided in the United States since February 13, 2001, and that they have been continuously physically present in the United States since March 9, 2001. On July 9, 2002, the Attorney General announced an extension of the TPS designation until September 9, 2003. Subsequent extensions of the TPS designation have been granted, with the latest extension valid until March 9, 2009, upon the applicant's re-registration during the requisite time period.

The initial registration period for El Salvadorans was from March 9, 2001, through September 9, 2002. The record shows that the applicant filed his initial application on November 19, 2002.

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 Citizenship and Immigration Services (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).

In a Notice of Intent to Deny (NOID) dated March 27, 2003, 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). The applicant was also requested to submit evidence to establish nationality and identity, and evidence to establish continuous residence in the United States since February 13, 2001, and continuous physical presence from March 9, 2001, to the date of filing the application. The applicant, in response, provided evidence in an attempt to establish his residence in the United States.

The director determined that the applicant had failed to establish that he was eligible for late registration and denied the application on July 25, 2003.

On appeal, the applicant asserts that his father applied for TPS; therefore, he is eligible for late registration because he is the child of an alien currently eligible for TPS. The applicant submits a copy of an Employment Authorization Card (under category C08) issued to [REDACTED] file number [REDACTED] valid from September 16, 1999 to September 15, 2000.

A review of Mr. [REDACTED] indicates that Mr. [REDACTED] indeed applied for and was granted TPS on November 4, 1991, during the 1991 TPS designation for El Salvador. However, that designation terminated on June 30, 1992. That earlier 1991 TPS designation is unrelated to the [present] 2001 TPS re-designation for which the applicant is now applying. Therefore, the applicant has failed to establish that he has met the late

registration requirements under 8 C.F.R. § 244.2(f)(2)(iv) as the child of an alien currently eligible to be a TPS registrant.

Additionally, it is also noted that on August 21, 1995, Mr. [REDACTED] filed Form I-589, Application for Asylum and for Withholding of Deportation. Form I-881, Application for Suspension of Deportation or Special Rule Cancellation of Removal (pursuant to section 203 of Public Law 105-100 (NACARA)) was subsequently filed by Mr. [REDACTED] on October 4, 2005. On March 15, 2006, his NACARA application was approved, and he was granted adjustment of status to lawful permanent residence under the classification of Z15. Mr. [REDACTED] also withdrew his application for asylum and the case was administratively closed on March 15, 2006.

While a pending asylum application may render the applicant eligible for late registration, it is noted that Mr. [REDACTED] did not include the applicant as his dependent, or any of Mr. [REDACTED] families, if any, in his asylum application.¹ Nor did the applicant file a separate asylum application. Additionally, the record does not contain evidence that Mr. [REDACTED] has or had a parent-child relationship as provided in section 101(a)(48)(b) of the Act.

Accordingly, the applicant has failed to establish that he has met the requirements 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.

Beyond the decision of the director, it is noted that documents contained in the record of proceeding are insufficient to establish that the applicant has met the criteria for continuous residence since February 13, 2001, and continuous physical presence since March 9, 2001, as described in 8 C.F.R. § 244.2(b) and (c). The only documentation furnished by the applicant, in response to the director's NOID, are statements or affidavits from individuals and were not supported by any corroborative evidence. Therefore, the director's decision to deny the TPS application will 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.

¹ Mr. [REDACTED] on his asylum application, indicated that his marital status was "divorced."