



U.S. Citizenship  
and Immigration  
Services

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[REDACTED]

FILE: [REDACTED]  
[EAC 07 011 71200]

Office: VERMONT SERVICE CENTER

Date: DEC 27 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.

*John H. Vaughan*  
for

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 on appeal. The appeal will be dismissed.

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 director denied the application because the applicant failed to establish his eligibility for TPS late registration.

On appeal, counsel asserts the applicant's eligibility for TPS.

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, 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.

The initial registration period for Salvadorans was from March 9, 2001, through September 9, 2002. The record reveals that the applicant filed the instant application with Citizenship and Immigration Services (CIS) on September 15, 2006.

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 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).

On March 5, 2007, the director requested the applicant to provide evidence to show that he is eligible for TPS late registration. The applicant was also requested to submit evidence to establish that he had continuously resided in the United States since February 13, 2001, and that he had been continuously present in the United States since March 9, 2001, to the date of filing his application. In response, counsel provided documentation regarding the applicant's residence and physical presence in the United States.

On April 10, 2007, the director denied the application because the applicant had failed to establish his eligibility for TPS late registration. The director stated in his decision that the applicant was not eligible under 8 C.F.R. § 244.2(f)(2)(ii) because the asylum application of the applicant's father, [REDACTED], was administratively closed on June 1, 2005, and the applicant did not file for TPS within the 60-day requisite period. Further, the director indicated that [REDACTED]'s TPS application was denied, making the applicant ineligible for late TPS registration under 8 C.F.R. § 244.2(f)(2)(iv).

On appeal, counsel asserts that the applicant is eligible for TPS late registration because the asylum application of the applicant's father is "subject to a further review or appeal." Counsel further argues that despite the fact that [REDACTED]'s asylum application was administratively closed on June 1, 2005, it is still subject to further review or appeal because it has not been denied by an Immigration Judge.

CIS database systems show that the asylum application in question was not administratively closed, making it subject to further review or appeal, but rather was denied on June 1, 2005, because [REDACTED] failed to appear for a scheduled interview. The regulations require that a late registration be filed within a 60-day period immediately following the expiration or termination of conditions described in paragraph (f)(2) of this section. 8 C.F.R. § 244.2(g). In this case, the applicant filed for TPS on September 15, 2006, more than a

year after his father's asylum application was denied. The applicant has failed to establish his eligibility for late registration under 8 C.F.R. § 244.2(f)(2) and (g). Consequently, the director's conclusion that the applicant failed to establish his eligibility for TPS late registration will be affirmed.

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.