

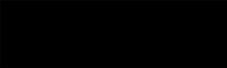


U.S. Citizenship
and Immigration
Services

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FILE: 
[EAC 06 343 74162]

Office: VERMONT SERVICE CENTER

Date: DEC 27 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.

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. The director also denied the application because the applicant failed to establish his qualifying continuous physical presence in the United States.

On appeal, the applicant submits additional evidence in an attempt to establish his claim of 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 August 20, 2006.

To qualify for late registration, the applicant must provide evidence that during the initial registration period he satisfied 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).

The director determined that the applicant did not establish his qualifying continuous physical presence in the United States, as well as his eligibility for TPS late registration. Therefore, the director denied the application on January 24, 2007. The director noted in his decision that the applicant previously filed an application for TPS with the Nebraska Service Center [REDACTED] on May 18, 2001, that was denied on September 26, 2001. The director also noted that the applicant did not provide sufficient evidence to overcome the grounds for denial of his previous TPS application.

On appeal, the applicant requests that the decision be reconsidered. The applicant claims that he has been in the United States since 1999, and submits additional documentation in support of his claim.

A review of the record reflects that the applicant has not submitted any evidence to establish that he has met any of the criteria for late registration described in 8 C.F.R. § 244.2(f)(2). Consequently, the director's conclusion that the applicant had failed to establish his eligibility for late registration will be affirmed.

The second issue in this proceeding is whether the applicant has established his continuous physical presence in the United States since March 9, 2001, to the date of filing his application.

On appeal, the applicant submits copies of the following documentation: the birth certificate of his son born on July 31, 2000; a fingerprint card dated March 28, 2001; a credit application; a hand-written receipt from Pronto's Auto Repair; three CIS receipt notices dated November 15, 2002, and September 12, 2006; earnings statements from Midwest Sanitation Company, Incorporated, dated December 5, 2002, January 23, 2003, December 11, 2003, March 25, 2004, May 27, 2004, and August 12, 2004; his Internal Revenue Service

(IRS), Form W-2, Wage and Tax Statements, for the years 2002 and 2003; his utility bills dated October 22, 2003 and January 23, 2006; a letter dated August 20, 2003, from Equitable Acceptance Corporation; a letter dated February 23, 2004, from the IRS; a billing statement from AIG Agency Auto; a letter dated April 12, 2006, from the Saint Paul Public Schools; and two ASC Appointment Notices dated September 20, 2006, and September 22, 2006.

The photocopied credit application and the hand-written receipt from Pronto's Auto Repair appear to have been altered, as the original dates seem to have been covered-over and later dates inserted in their place. The remaining documentation post-dates the beginning of the requisite time period for continuous physical presence in the United States. Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988).

The applicant has failed to submit any objective evidence to explain or justify the apparent alteration of the documents. Therefore, the reliability of the remaining evidence offered by the applicant is suspect and it must be concluded that the applicant has failed to satisfy the continuous physical presence requirement under 8 C.F.R. §§ 244.2(b). Consequently, the director's decision to deny the application for temporary protected status on this ground will be affirmed.

Beyond the decision of the director, it is noted that the applicant has provided insufficient evidence to establish his continuous residence in the United States during the requisite time period beginning on February 13, 2001. 8 C.F.R. § 244.2(c). Therefore, the application will also be denied for this reason.

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 this burden.

It is also noted that the applicant was ordered removed from the United States by an Immigration Judge at Harlingen, Texas on September 29, 1997, under file number A76 318 788. The Warrant of Removal remains outstanding.

ORDER: The appeal is dismissed.