



U.S. Citizenship  
and Immigration  
Services

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FILE:



Office: California Service Center

Date: FEB 06 2007

[WAC 05 161 79902]

IN RE:

Applicant:



PETITION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254.

ON BEHALF OF PETITIONER:

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 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 record reveals that the applicant filed a late initial TPS application on September 10, 2002, under CIS receipt number EAC 03 007 53363. The Vermont Service Center Director denied the application on January 20, 2004, without specifying the reasons for the denial. A subsequent appeal to the Administrative Appeals Office (AAO) was remanded by the AAO on October 5, 2005, for issuance of a new decision that set forth the specific reasons for the denial. The Vermont Service Center Director issued a new denial of the application on January 17, 2006, specifying that the applicant had failed to establish his continuous residence in the United States since February 13, 2001, and his continuous physical presence from March 9, 2001, to the date of filing. The record does not reflect that the applicant filed an appeal or a motion to reopen/reconsider that decision.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on March 10, 2005, under CIS receipt number WAC 05 161 79902, and indicated that he was re-registering for TPS. The California Service Center director denied that application on August 16, 2005, because the applicant's initial TPS application had been denied due to the applicant's failure to establish prima facie eligibility for TPS.

The record reflects that with his initial application and with his initial appeal, the applicant submitted the following evidence:

1. Medical records from East Boston Neighborhood Health Center, showing six immunizations on January 16, 2001, and a physical examination on January 16, 2001;
2. Affidavits from three individuals, dated September 6, 2002, attesting to the applicant's residence from January 2001, and from February 2001.
3. An El Salvador birth certificate in Spanish, with an English translation;
4. A Boston Public Schools Midterm Warning Notice referencing the marking period ending January 24, 2001;
5. An EBHS grade report dated January 23, 2004;
6. A personal reference letter from [REDACTED] dated September 8, 2005;
7. A CIS receipt notice, dated February 13, 2004; and
8. A USCIS computer Case Status letter, for receipt for an appeal under CIS receipt number EAC 04 094 51433.

On appeal, the applicant asserts that the evidence that he has submitted, including his school records, establishes his eligibility for TPS. With his appeal, in an attempt to establish his continuous residence in the United States and his continuous physical presence, the applicant submitted copies of evidence previously furnished, and

9. A Social Security Card, and two Employment Authorization Cards, which expired in 2003, and 2005.

If the applicant is filing an application as a re-registration, a previous grant of TPS must have been afforded the applicant, as only those individuals who are granted TPS must register annually. In addition, the applicant must continue to maintain the conditions of eligibility. 8 C.F.R. § 244.17.

In this case, the applicant has not previously been granted TPS. Therefore, he is not eligible to re-register for TPS. Consequently, the director's decision to deny the application will be affirmed.

Beyond the decision of the director, the applicant has not submitted sufficient evidence to establish his nationality and identity. The applicant has furnished a copy of an El Salvador birth certificate and English translation; however, he has not submitted a national identity document from his country bearing a photograph and or/fingerprint. The birth certificate alone is insufficient to establish the applicant's identity and nationality under the provision of 8 C.F.R. § 244.9(a)(1). Also, the applicant has not submitted sufficient evidence to establish his continuous residence in the United States since February 13, 2001, and continuous physical presence since March 9, 2001. In addition, it is also noted that the applicant filed his TPS application on September 10, 2002, after the initial registration period for Salvadorans had closed. 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). Therefore, the 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.