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U.S. Citizenship  
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Services

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FILE:



OFFICE: California Service Center

DATE:

FEB 15 2007

[WAC 06 049 70031]

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 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. It is now on appeal before the Administrative Appeals Office (AAO). 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 director denied the application on the grounds that the record failed to establish that the applicant was continuously resident and physically present in the United States for the required periods of time, or that he is eligible for late registration.

On appeal, the applicant claims that he has submitted sufficient evidence to establish his continuous residence and physical presence in the United States from the dates required for El Salvadorans applying 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 of a 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 Temporary Protected Status 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 phrase 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.

The phrase 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.

El Salvadoran nationals applying for TPS must demonstrate continuous residence in the United States since February 13, 2001, and continuous physical presence since March 9, 2001. The initial registration period for El Salvadorans was from March 9, 2001, through September 9, 2002. The record reveals that the applicant filed his initial TPS application with Citizenship and Immigration Services (CIS) on November 18, 2005.

To qualify for late registration, the applicant must provide evidence that during the initial registration period he satisfied at least one of the criteria enumerated 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. *See* 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. *See* 8 C.F.R. § 244.9(b).

On May 1, 2006, 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), his date of entry into the United States, his national identity, and the starting dates of his continuous residence and physical presence in the United States. In response the applicant, who claims to have entered the United States illegally on December 12, 2000, submitted several letters from acquaintances in the United States who claim to have first met the applicant at various time periods between early 2001 and March 2002.

In a Notice of Decision issued on August 2, 2006, the director determined that the evidence submitted by the applicant failed to establish he met the continuous residence and continuous physical presence requirements for El Salvadoran TPS applicants or that he was eligible for late registration.

On appeal, the applicant submits an additional letter from a church pastor who states that the applicant has been an active member of his church since December 15, 2000. The applicant asserts that the evidence of record demonstrates that he has been a continuous resident of and physically present in the United States since December 2000, thereby meeting the date requirements for El Salvadoran TPS applicants. The AAO determines that the pastor's letter submitted on appeal, dated August 26, 2006, does not satisfy the evidentiary standard of 8 C.F.R. § 244.9(a)(2)(v)(D) because, although it states the applicant's current address, it does not state the applicant's address(es) during his entire membership period going back to December 2000. Nor does the pastor state that he has been associated with the church in that capacity since December 2000, which calls into question whether his letter meets the evidentiary standard of 8 C.F.R. § 244.9(a)(2)(v)(G), requiring that a church attestation "establish[] the origin of the information being attested to." As for the earlier submitted letters from four acquaintances who claim to have known the applicant since 2001 or 2002, none state that the applicant was continuously resident in the United States since February 2001 and continuously physically present in the United States since March 2001. While each of the four acquaintances claims that he employed the applicant in 2001 or 2002, none of the four letters meets the evidentiary standard of 8 C.F.R. § 244.9(a)(2)(i) because they are not in affidavit form and do not provide the applicant's address(es) at the time of employment and the exact periods of employment and layoff, as required by 8 C.F.R. § 244.9(a)(2)(i)(A), (B), and (C). Furthermore, only two of the letters describes the applicant's employment duties, as required by 8 C.F.R. § 244.9(a)(2)(i)(D). The applicant has not submitted any of the other types of documentation enumerated in 8 C.F.R. § 244.9(a)(2) to demonstrate his continuous residence and physical presence in the United States. Based on the foregoing analysis, the AAO concludes that the evidence of record fails to establish that the applicant meets the continuous residence and continuous physical presence requirements for TPS.

Nor does the record include any evidence to establish that the applicant meets any of the criteria for late registration described in 8 C.F.R. § 244.2(f)(2).

The application will be denied for the above stated reasons, with each considered as an independent and alternative basis for denial. The director's decision to deny the application for TPS will be affirmed.

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.

**ORDER:** The appeal is dismissed.