



U.S. Citizenship  
and Immigration  
Services

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FILE:

[REDACTED]

OFFICE: California Service Center

DATE: FEB 16 2007

[WAC 05 222 74177]

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.

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 ground that the TPS application was not timely filed and the applicant failed to establish that he was eligible for late registration.

On appeal counsel asserts that the applicant qualifies for late registration because during the initial registration period he was the child of an alien currently eligible for TPS registration, meets the continuous residency and physical presence requirements for El Salvadoran nationals, and is otherwise eligible 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.

Persons applying for TPS offered to El Salvadorans 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 Salvadorans was from March 9, 2001, through September 9, 2002. The record reveals that the applicant filed his Application for Temporary Protected Status (Form I-821) with Citizenship and Immigration Services (CIS) on May 10, 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 February 6, 2006, the director issued a Notice of Intent to Deny requesting the applicant to submit evidence establishing his eligibility for late registration in accordance with 8 C.F.R. § 244.2(f)(2) and (g). In response the applicant, who claims to have entered the United States without inspection on January 5, 2001, submitted a variety of documentation including a copy of his El Salvadoran passport, Social Security and Employment Authorization cards, various earnings and tax records, and a copy of his birth certificate.

In a Notice of Decision issued on May 11, 2006, the director determined that the evidence submitted by the applicant failed to establish he met any of the criteria enumerated at 8 C.F.R. § 244.2(f)(2) to qualify for late registration.

On appeal counsel asserts that the applicant was a minor during the initial registration period for El Salvadoran nationals and was erroneously advised that he did not qualify for TPS because he was under age. According to counsel, the applicant qualifies for late registration under 8 C.F.R. § 244.2(f)(2) because his father, [REDACTED] was eligible for TPS during the initial registration period and currently holds TPS. Counsel asserts that the evidence of record also establishes that the applicant meets the other requirements for TPS enumerated in 8 C.F.R. § 244.2(a) through (e).

CIS records do not show that the applicant's father has ever been granted TPS, or even filed an application for TPS. No documentary evidence has been submitted by the applicant showing otherwise. Going on record

without supporting documentation does not satisfy the applicant's burden of proof. *See Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)). Thus, the record does not establish that the applicant qualifies for late registration under the criterion at 8 C.F.R. § 244.2(f)(2)(iv). Nor does he qualify for late registration under any of the other criteria enumerated at 8 C.F.R. § 244.2(f)(2)(i), (ii), and (iii).

Accordingly, the director's decision to deny the application for TPS will be affirmed.

Beyond the decision of the director, the AAO notes that the applicant, who was born November 13, 1983, turned 21 on November 13, 2004, at which time he ceased to be a "child" for immigration purposes. As provided in 8 C.F.R. § 244.2(g), therefore, the applicant had 60 days – until January 12, 2005 – to file an application for late registration. The applicant did not file his TPS application until May 10, 2005. Therefore, even if the applicant met the qualifying criterion of 8 C.F.R. § 244.2(f)(2)(iv) for late registration, the application could not be approved because it was not filed within the specified filing period. For this reason as well the application must be denied.

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.