



U.S. Citizenship
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Services

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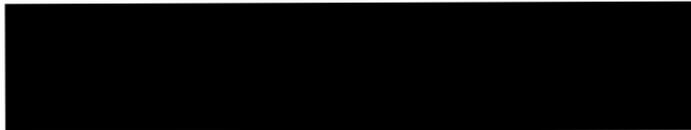
Office: CALIFORNIA SERVICE CENTER

Date:

JAN 29 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 office that originally decided your case. Any further inquiry must be made to that office.

A handwritten signature in black ink, appearing to read "R. Wiemann".

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 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 residence and continuous physical presence in the United States.

On appeal, the applicant submits evidence in support of 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 Service (CIS) on May 4, 2005.

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 13, 2006, the director requested the applicant to submit evidence to establish his eligibility for TPS late registration. The director also requested the applicant to submit evidence to establish his continuous residence since February 13, 2001, and his continuous physical presence in the United States since March 9, 2001. In addition, the applicant was requested to submit evidence to establish his nationality and his identity as well as submit two identical photographs.

The applicant responded to the director's request and submitted the following: a copy of his El Salvadoran passport; copies of his El Salvadoran birth certificate along with an English translation; a copy of an envelope; a copy of a receipt from Gigante Express dated January 21, 2001; a letter dated May 11, 2003, from Mr. [REDACTED] who stated that the applicant had been an employee from November 8, 2001 to May 2, 2002; and, an affidavit dated May 12, 2003, from Ms [REDACTED] who stated that the applicant lived with her from March 30, 2000 to June 4, 2002.

The director determined that the applicant did not provide any evidence to show that he was eligible for TPS late registration. In addition, the director determined that the applicant had failed to submit sufficient evidence to establish her qualifying continuous residence and continuous physical presence in the United States; and therefore, denied the application on May 12, 2006.

On appeal, the applicant provides the following documentation in support of his claim of eligibility: a copy of his El Salvadoran passport; a copy of an envelope; an affidavit dated May 11, 2003, from Mr. [REDACTED] who stated that the applicant had been an employee from November 8, 2001 to May 2, 2002; and, an affidavit dated

May 12, 2003, from Ms. [REDACTED] who stated that the applicant lived with her from March 30, 2000 to June 4, 2002.

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 residence in the United States since February 13, 2001, and his continuous physical presence in the United States since March 9, 2001, to the date of filing his application.

The copy of the single envelope has no evidentiary weight because the postmark is not legible. The statements from Mr. [REDACTED] regarding the applicant's employment with his company post-date the beginning of the requisite time periods for continuous residence and continuous physical presence and are not supported by any corroborative evidence such as paycheck stubs. In addition, the statements from Ms. [REDACTED] are not supported by evidence such as rent receipts or receipts from payment for utilities and other expenses. It is reasonable to expect that the applicant would have some type of contemporaneous evidence to support these assertions. Affidavits from acquaintances are not, by themselves, persuasive evidence of continuous residence and continuous physical presence.

The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. 8 C.F.R. § 244.9(b). It is determined that the documentation submitted by the applicant is not sufficient to establish that he satisfies the continuous residence and continuous physical presence requirements described in 8 C.F.R. §§ 244.2(b) and (c). Consequently, the director's decision to deny the application on these grounds will also be affirmed.

Although not addressed by the director, the record of proceedings contains the Federal Bureau of Investigation report reflecting that the applicant was arrested by the Holton [Kansas] Police Department under the name of Mr. [REDACTED] on August 12, 2005, and charged with "KSA 21-3508 (1 Count) Lewd and Lascivious Behavior." CIS must address this arrest and/or convictions in any future decisions or proceedings.

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.