



U.S. Citizenship
and Immigration
Services

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JUL 24 2007

FILE:

[REDACTED]

Office: CALIFORNIA SERVICE CENTER

Date:

[WAC 05 154 73525]

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: SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the California Service Center. 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 (AAO) 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 he was eligible for late initial registration and he had failed to provide a final court disposition for an arrest on July 25, 2003.

On appeal, the applicant states he is eligible for late initial registration because his wife is currently approved for TPS. The applicant further states that he was never arrested on July 25, 2003 and that he does not have a criminal record. The applicant submits a Certificate of Record Search dated July 26, 2006 from the District Clerk of Harris County, Texas indicating that base on a criminal record search from 1976 to July 26, 2006, that no criminal charges were found under the applicant's name in that jurisdiction.

Section 244(c) of the Act, and the related regulations at 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 Secretary of the Department of Homeland Security has granted an extension of the TPS designation with validity until September 9, 2007, upon the applicant's re-registration during the requisite time period. The record reflects that the applicant filed his initial application with Citizenship and Immigration Services on March 3, 2005.

To qualify for late registration, an applicant must provide evidence that during the initial registration period, he or she 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 May 17, 2006, the applicant was requested to submit evidence establishing his eligibility for late registration as set forth in the regulations at 8 C.F.R. § 244.2(f)(2). The applicant was also requested to submit evidence establishing his continuous residence and continuous physical presence in the United States. The applicant, in response, provided documentation relating to his residence and physical presence in this country along with a copy of his passport.

The director determined that the applicant had failed to establish he was eligible for late registration and denied the application on July 11, 2006. On appeal, the applicant states that he is eligible for late initial registration because his wife is currently approved for TPS. The applicant provides the name of the person that he purports is his spouse and provides her alien file number. Review of both his and her record shows both persons list the other as their spouse. However, neither record contains documentation such as a marriage certificate

documenting the qualifying relationship. Additionally, the applicant indicated on his Form I-821, Application for Temporary Protected Status, filed on March 3, 2005 that his marital status was single.

The applicant has submitted evidence in an attempt to establish his qualifying continuous residence and physical presence in the United States. However, this evidence does not mitigate the applicant's failure to file his Application for Temporary Protected Status within the initial registration period. The applicant has not submitted any evidence to establish that he has met the criteria for late registration described in the regulations at 8 C.F.R. § 244.2(f)(2). Consequently, the director's decision to deny the application for TPS is affirmed.

The director also found that the applicant had failed to provide a final court disposition for an arrest on July 25, 2003. The applicant states that his record is clean and provides a Certificate of Record Search for consideration. The director required the applicant to provide a final court disposition for his arrest on July 25, 2003 for CHARGE 1,-ABANDON/ENDANGER CHILD W/ INTENT TO RETURN. However, the Federal Bureau of Investigation fingerprint results report relied upon by the director shows that on July 25, 2003, a United States citizen with green eyes and brown hair born in Minnesota was arrested for that crime and that the charge was dismissed. Given the applicant's assertion that he was not arrested for this or any other crime, the fact that he provided some court documentation for consideration, the results report indication that the charge was dismissed on October 15, 2003, and the fact that the applicant was probably not arrested on July 25, 2003, it is determined the applicant has overcome this ground for denial. Nevertheless, the applicant remains ineligible for TPS as discussed above.

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.