



U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
[WAC 05 186 71749]

OFFICE: California Service Center

DATE: JUL 27 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.

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 applicant failed to establish that he was eligible for late TPS registration and that he met the continuous residence and continuous physical presence requirements for TPS applicants from El Salvador.

On appeal the applicant indicates that he has been living with his father in the United States and submits some additional documentation relating to himself and his father.

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 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 in the United States since March 9, 2001. The initial registration period for El Salvadorans was from March 9, 2001 through September 9, 2002. The record shows that the applicant filed his initial Form I-821, Application for Temporary Protected Status, on April 4, 2005 – more than two and one-half years after the close of the initial registration period.

To qualify for late registration, the applicant must provide evidence that during the initial registration period he met at least one of the conditions 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 Citizenship and Immigration Services (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).

In a Notice of Intent to Deny (NOID) dated April 18, 2006, the service center requested the applicant – who was born in El Salvador on February 26, 1986 and claims to have entered the United States without inspection on November 26, 2000 – to submit evidence that he was eligible for late registration and met the continuous residence and continuous physical presence requirements for TPS applicants from El Salvador, as well as evidence of his date of entry into the United States and his nationality/identity. On May 9, 2006, the applicant responded with assorted documentation including photocopies of his El Salvadoran passport and birth certificate;

a letter from Northside High School in Fort Smith, Arkansas, stating that the applicant was a full-time student in the academic years of 2001-2004; immunization records for the applicant with entries dating from December 2000 to January 2005; a letter from a community clinic, dated September 26, 2003, with the applicant's lab results; and a series of checks and postal money orders payable from the applicant to the Department of Homeland Security in 2005.

On September 12, 2006, the director denied the application on the grounds that the applicant failed to establish that he was eligible for late TPS registration and that he was continuously resident and continuously physically present in the United States from the dates applicable for TPS residents from El Salvador.

On appeal the applicant indicates that he has been living with his father in the United States and, therefore, does not have much documentation in his own name. The applicant submits photocopies of his father's El Salvadoran birth certificate, as well as his father's federal income tax returns for the years 2002-2005 which list the applicant as his son and dependent. In addition, the applicant submits a photocopied affidavit from an individual who claims to have known the applicant in the United States since 2000. Notwithstanding the submission of this additional evidence of the applicant's residence and physical presence in the United States during the requisite time period(s) for El Salvadoran nationals, the applicant does not address the issue of late registration in his appeal.

Thus, there is still no evidence in the record that the applicant – who filed his initial TPS application two and one-half years after the close of the initial registration period for El Salvadoran nationals – is eligible for late registration under any of the criteria enumerated at 8 C.F.R. § 244.2(f)(2). The director's denial of the application on this ground will therefore 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 that burden.

ORDER: The appeal is dismissed.