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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
[WAC 05 298 70369]

OFFICE: California Service Center

DATE:

MAR 05 2007

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 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 claims to be 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 because the applicant failed to establish he: 1) had continuously resided in the United States since February 13, 2001; 2) had been continuously physically present in the United States since March 9, 2001; and 3) was eligible for late registration.

On appeal, the applicant requests that the AAO reconsider his application.

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 initial application with Citizenship and Immigration Services (CIS) on July 25, 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 July 21, 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). The applicant was also requested to submit evidence establishing his residence in the United States from prior to February 13, 2001, and his continuous physical presence from March 9, 2001 to the date of filing. The applicant, in response, provided the evidence in an attempt to establish his qualifying residence and physical presence in the United States. The applicant provided:

1. Letter, dated June 23, 2006, signed by [REDACTED], Vice President of [REDACTED] Inc., stating he has known the applicant "for about five years" and that he has worked for the company for six months.
2. Letter, dated June 7, 2006, signed by [REDACTED], ESOL Program Coordinator, Spanish Catholic Center, stating that the applicant was enrolled in the ESOL program during the "winter cycle of 2001" and "Summer cycle of 2003."
3. Letter, dated June 16, 2006, signed by [REDACTED] and [REDACTED]s, asserting that the applicant has lived in their house from January 2001 through November 2003, located at [REDACTED]
4. Letter, dated July 28, 2006, signed by [REDACTED], asserting he has known the applicant for "about 3 ½ years" when they converted to [REDACTED]s Witness together.
5. Invoice, dated December 7, 2003, from FIRED UP, for the purchase of a CD music disc.
6. Copy, boarding documents, for a flight to LAX in March 2002.
7. Copies of registration cards for Montgomery College indicating the applicant was enrolled in an ESOL program for January 2005.

However, the applicant failed to submit any evidence that he was eligible for late registration.

On appeal the applicant provided affidavits, copies of plane tickets, school registrations, employment letters and a receipt. However, the bulk of the evidence submitted by the applicant is for the year 2002 and later. The letters and affidavits submitted are general in nature, and do not specifically articulate information supporting the applicant's eligibility such as the actual date he arrived, or other relevant, verifiable information. Even when viewed in a light most favorable to the applicant the evidence does not articulate a basis of eligibility for late registration.

The applicant has submitted evidence in an attempt to establish his qualifying residence and physical presence in the United States. However, this evidence does not mitigate the applicant's failure to file his Form I-821, Application for Temporary Protected Status, within the initial registration period. 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). Moreover, the evidence provided is not sufficient to establish that the applicant has resided in the United States since prior to February 13, 2001, and has been continuously present in the United States since March 9, 2001, pursuant to 8 C.F.R. §§ 244.2(b) and (c). The director's decision to deny the application for TPS will be affirmed on all grounds.

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 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.