



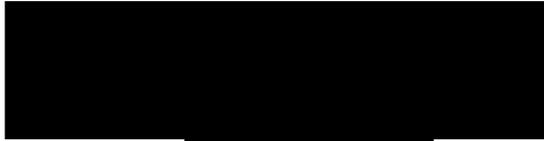
U.S. Citizenship
and Immigration
Services

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MAR 15 2007



FILE:



OFFICE: CALIFORNIA SERVICE CENTER DATE:

[WAC 04 029 51177]

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.

Cindy N. Gomez for
Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, California Service Center. The Director (now Chief) of the Administrative Appeals Office (AAO) subsequently dismissed the applicant's appeal from the denial decision, and the matter is now before the AAO on a motion to reopen. The motion will be granted and the application will be approved.

The director initially denied the application on March 3, 2004, because he found the applicant had failed to establish: (1) his eligibility for late initial registration; (2) his continuous residence in the United States since February 13, 2001, and his continuous physical presence in the United States since March 9, 2001; and, (3) his identity and nationality.

On March 29, 2004, the applicant filed an appeal from the denial decision. On appeal, the applicant submitted a brief and additional evidence. Although a Form G-28, Notice of Entry of Appearance as Attorney or Representative, has been submitted, the individual named is not authorized under 8 C.F.R. § 292.1 or 292.2 to represent the applicant. Therefore, the applicant shall be considered as self-represented and the decision will be furnished only to the applicant.

In a decision dated June 29, 2005, the Director of the AAO found that the applicant had established his eligibility for late initial registration¹ and his qualifying continuous residence and continuous physical presence in the United States during the requisite periods; however, the Director dismissed the appeal because he found that the applicant had not submitted an official El Salvadoran photo identification document to establish his identity and nationality.

On motion, the applicant states that he had previously submitted his El Salvadoran passport in conjunction with his asylum applications. The applicant submits a photocopy of his current El Salvadoran passport issued by the El Salvadoran Consulate in Los Angeles, California, on August 17, 2000. Additionally, the applicant's asylum record, [REDACTED] has now been incorporated into the current record of proceeding. The applicant's asylum record contains the applicant's prior El Salvadoran passport issued in El Salvador on November 2, 1988.

Each application must be accompanied by evidence of the applicant's identity and nationality. Acceptable evidence in descending order of preference may consist of the alien's passport, a birth certificate accompanied by photo identification, and/or any national identity document from the alien's country of origin bearing photo and/or fingerprint. 8 C.F.R. § 244.9(a)(1).

¹ It is noted that it was stated in the previous AAO decision that the applicant qualified for late initial registration because he filed his TPS application within 60 days of the denial of his Form I-881, Application for Suspension of Deportation or Special Rule Cancellation of Removal (Pursuant to section 203 of Public Law 105-100 (NACARA). That statement is incorrect. In order to qualify for late initial registration based on a pending Form I-821, the applicant was required to file his Form I-821 within 60 days of the termination of that proceeding. The applicant's Form I-881 was denied on June 3, 2003. The applicant's Form I-821 was filed on November 10, 2003, five months after the termination of the applicant's Form I-881. Therefore, that statement is withdrawn. Nevertheless, the applicant is eligible for late initial registration because his asylum application filed under the American Baptist Church v. Thornburgh settlement agreement was pending during the initial registration period for Salvadorans.

As previously stated, the record contains a photocopy of the applicant's current and prior Salvadoran passports. The applicant has submitted sufficient evidence to establish that he has met the identity and nationality requirement described in 8 C.F.R. § 244.9(a)(1). Therefore, the sole ground for denial of the application has been overcome. The prior decisions of the service center director and the Chief of the AAO will be withdrawn and the application will be approved.

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 met this burden.

ORDER: The motion is granted and the application is approved.