

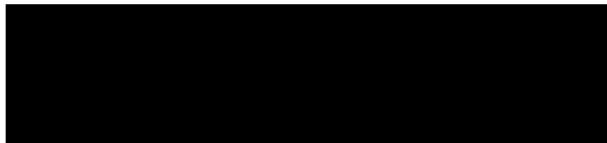
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U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
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U.S. Citizenship
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Services

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FILE:



Office: CALIFORNIA SERVICE CENTER

Date:

MAR 16 2007

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IN RE:

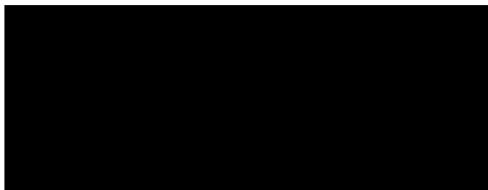
Applicant:



APPLICATION:

Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT:



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, 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 he was eligible for late initial registration, had entered and had continuously resided in the United States since February 13, 2001, and had been continuously physically present in this country since March 9, 2001.

On appeal, the applicant states that he is eligible for late initial registration because he is a child of an alien currently eligible to be a TPS registrant.

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. Subsequent extensions of TPS have been granted with the latest extension valid 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 CIS on March 8, 2006.

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.

The record of proceedings confirms that the applicant filed his application after the initial registration period had closed. 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 record of proceeding contains a copy of the applicant's birth certificate indicating that his mother is Ana Coribel Romero Canas and a copy of her Form I-766, Employment Authorization Card, to establish that she is a current TPS recipient. While regulations at 8 C.F.R. § 244.2(f)(2)(iv) allow the children of aliens who are TPS-eligible to file applications after the initial registration period had closed, these regulations do not relax the requirements for eligibility for TPS.

The applicant indicated on his Form I-821, Application for Temporary Protected Status, that he did not enter the United States until December 16, 2004. Additionally, the record contains a Form I-213, Record of Deportable/Inadmissible Alien, dated December 16, 2004, indicating that the United States Border Patrol apprehended the applicant after he illegally entered the United States by wading across the Rio Grande River on that date. Therefore, he cannot satisfy the continuous residence and continuous physical requirements described in 8 C.F.R. §§ 244.2(b) and (c) which require his continuous residence in the United States since February 13,

2001 and his continuous physical presence in this country since March 9, 2001. Consequently, the director's decision to deny the application for TPS is affirmed for these reasons.

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.