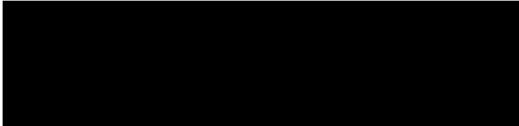




U.S. Citizenship
and Immigration
Services

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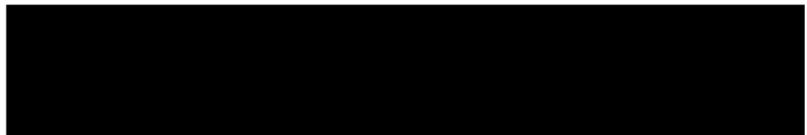
OFFICE: California Service Center

DATE: MAR 29 2007

[WAC 05 221 70808]

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 his nationality/identity, that he was continuously resident and physically present in the United States from the dates applicable for TPS applicants from El Salvador, and that he registered for TPS during the initial registration period or is eligible for late registration and filed a timely late registration application for TPS.

On appeal the applicant submits additional evidence of his nationality/identity.

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.

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 May 9, 2005.

To qualify for late registration, the applicant must provide evidence that during the initial registration period she 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).

On February 5, 2006, the service center requested the applicant, who claims to have entered the United States without inspection on September 22, 2000, to submit evidence that he was eligible for late registration, his date of entry into the United States, his nationality/identity, as well as evidence that he met the continuous residence and physical presence requirements for TPS applicants from El Salvador. The applicant responded on April 5, 2006, with some additional documentation.

On April 27, 2006, the director issued a Notice of Decision stating that the evidence of record failed to establish the applicant's eligibility for TPS. The director denied the application on the grounds that the applicant had not established (1) that he had continuously resided in the United States since February 13, 2001 and been physically present in the country since March 9, 2001, (2) that he registered for TPS during the initial

registration period or was eligible for late registration and filed a timely late registration application for TPS, and (3) his nationality/identity.

On appeal, the applicant submits additional documentation of his nationality and identity. Together with the documentation already on file, the AAO determines that the applicant has established his identity and his El Salvadoran nationality. Accordingly, the director's decision to deny the application on this ground will be withdrawn.

There is still no evidence in the record, however, to demonstrate that the applicant is eligible for late registration under any of the criteria enumerated at 8 C.F.R. § 244.2(f)(2). Nor has any additional evidence been submitted on appeal to demonstrate that the applicant has been continuously physically present in the United States since March 9, 2001, and a continuous resident of the United States since February 13, 2001, as required for TPS applicants from El Salvador under 8 C.F.R. § 244.2(b) and (c). The AAO concurs with the director's finding that the documentation of record is insufficient to establish that the applicant meets the continuous residence and physical presence requirements for El Salvadoran nationals. Accordingly, the director's denial of the application for TPS on the foregoing grounds will be affirmed.

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 that burden.

ORDER: The appeal is dismissed.