



U.S. Citizenship  
and Immigration  
Services

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[REDACTED]

*MI*

FILE:

[REDACTED]

OFFICE: Vermont Service Center

DATE: MAY 02 2007

[EAC 06 138 50452]

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:

[REDACTED]

**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, Vermont Service Center (VSC). 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 application was denied by the director on the ground that the applicant failed to establish that he is eligible for late registration.

On appeal the applicant submits some additional documentation and requests that his case be reviewed.

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.

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. Subsequent extensions of the TPS designation have been granted, with the latest extension valid until September 9, 2007, upon the applicant's re-registration during the requisite time period.

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).

The record reveals that the applicant filed an initial Form I-821, Application for Temporary Protected Status, on April 12, 2001, under Citizenship and Immigration Services (CIS) receipt number EAC 01 179 51149. The VSC sent a request for evidence to the applicant's attorney on July 11, 2003, requesting the submission of documentation showing that the applicant had been continuously resident in the United States since February 13, 2001, and continuously physically present in the United States from March 9, 2001, to the date his application was filed. When no response was received by the requisite date, the director denied the application on the ground of abandonment on March 17, 2004.

The applicant filed the current TPS application on March 29, 2006. On May 23, 2006, the director sent the applicant a notice of intent to deny, in which he requested the submission of evidence to show that the applicant was eligible for late TPS registration and that he was continuously resident and physically present in the United States from the dates applicable for El Salvadoran nationals. The applicant responded with some additional documentation. On June 28, 2006, the director denied the application on the ground that the applicant had failed to establish that he was eligible for late TPS registration under the provisions of 8 C.F.R. § 244.2(f)(2).

The applicant filed a timely appeal, requesting that his case be reviewed, and has submitted several items of additional documentation which he asserts "will demonstrate that facts regarding my date of entry and continuous residence in the United States are true and correct."

The AAO concurs with the director's denial of the application on the ground of failure to establish eligibility for late TPS registration. The record confirms that the applicant filed the current Form I-821 after the initial registration period for El Salvadoran nationals had expired. Since the applicant's first Form I-821 was denied, the second Form I-821 cannot be considered as an application for annual re-registration. The current application can

only be considered as a new filing for TPS benefits under the provisions of late registration, since the application was filed outside the initial registration period. In this case, the applicant has not satisfied any of the criteria for late registration described in 8 C.F.R. § 244.2(f)(2). Accordingly, the decision to deny the application for TPS on that ground will be affirmed.

Beyond the decision of the director, the AAO determines that the current application cannot be approved because the evidence of record does not establish that the applicant has been continuously physically present in the United States from March 9, 2001, to the date of filing, and continuously resident in the United States since February 13, 2001. Though the applicant claims to have entered the United States without inspection on January 22, 1997, most of the documentation he has submitted as evidence of his residence and physical presence dates from 2002 and later. The only documents dating from prior to 2002 (aside from the applicant's initial Form I-821 and Form I-765, Application for Employment Authorization, filed in the spring of 2001), are photocopies of (1) a passport issued to the applicant by the El Salvadoran Consulate General in Washington, D.C. on April 3, 2000; (2) a bill from Sprint PCS, dated April 18, 2000, identifying the applicant as the customer; and (3) an Employment Authorization Card issued to the applicant by the Department of Justice with a validity date of May 28, 2001. None of these documents identifies an address for the applicant in the United States. Three other documents date from early 2002, including a Form W-2, Wage and Tax Statement, issued to the applicant for the tax year 2001, and the applicant's federal and state income tax returns for the year 2001, both of which are unsigned by the applicant and dated January 27, 2002. The AAO determines that the foregoing documentation is insufficient to establish that the applicant has been continuously resident in the United States since February 13, 2001, as required for TPS applicants from El Salvador under 8 C.F.R. § 244.2(c), and continuously physically present in the United States from March 9, 2001, to the date of filing, as required for TPS applicants from El Salvador under 8 C.F.R. § 244.2(b).

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.