



U.S. Citizenship  
and Immigration  
Services

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FILE: [REDACTED]  
[EAC 07 011 78246]

Office: VERMONT SERVICE CENTER

Date: NOV 01 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:

[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.

*John H. Vaughan*  
for

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, Vermont Service Center (VSC), and is now before the Administrative Appeals Office (AAO) 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 that he was eligible for late registration. The director also found that the applicant had failed to establish his nationality/identity, and his qualifying continuous residence and continuous physical presence in the United States during the requisite time periods.

On appeal, counsel for the applicant submits a brief statement, a letter, and additional documentation.

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 temporary protected status only if such alien establishes that he or she:

- (a) Is a national, as defined in section 101(a)(21) of the Act, of a foreign 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 § 244.3;
- (e) Is not ineligible under § 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.

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.

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 Form I-821, Application for Temporary Protected Status, with Citizenship and Immigration Services (CIS) on September 25, 2006 – more than four years after the initial registration period had ended.

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 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 burden of proof the applicant must provide supporting documentary evidence of eligibility apart from his own statements. 8 C.F.R. § 244.9(b).

On April 10, 2007, the director requested the applicant 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 to establish his nationality/identity and his qualifying continuous residence and continuous physical presence in the

United States during the requisite time periods. The record reflects that the applicant failed to respond to the director's request.

The director determined that the applicant had failed to establish his eligibility for TPS and denied the application on May 22, 2007. The applicant, through counsel, filed his appeal from that decision on June 20, 2007.

On appeal, counsel asserts that the applicant never received the director's request for evidence dated April 10, 2007. Counsel also asserts that the applicant is eligible for late registration because he had a request for asylum pending.

The first issue in this proceeding is whether the applicant is eligible for late registration.

While the applicant's pending application for asylum rendered him eligible for late registration, CIS regulations also require a late registration to be filed within a 60-day period immediately following the expiration or termination of conditions that made the applicant eligible for late registration. 8 C.F.R. § 244.2(g). In this case, CIS records reflect that the applicant's asylum application was denied on February 2, 2005; therefore, his 60-day period for late registration actually expired on April 1, 2005. The applicant did not file his TPS application until September 25, 2006.

The applicant did not file his application during the initial registration period or during the allotted 60-day late registration period described in 8 C.F.R. § 244.2(g). Consequently, the director's decision to deny the application for Temporary Protected Status on this ground will be affirmed.

The second issue in this proceeding is whether the applicant has established his nationality/identity. The record contains a photocopy of the applicant's El Salvadoran personal identification card, his birth certificate (with English translation), and a photocopy of the biographic page from his El Salvadoran passport. Consequently, the director's decision to deny the application for Temporary Protected Status on this ground will be withdrawn.

The third and fourth issues in this proceeding are whether the applicant has established his continuous residence in the United States since February 13, 2001, and his continuous physical presence since March 9, 2001.

Based on a review of the record, it is concluded that the applicant has submitted sufficient documentation to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite time periods. He has, therefore, met the criteria described in 8 C.F.R. § 244.2(b) and (c). Consequently, the director's decision to deny the application for these reasons will also be withdrawn. Nevertheless, the applicant remains ineligible for TPS due to his late registration as discussed above.

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.