



U.S. Citizenship
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[REDACTED]

FILE: [REDACTED] Office: California Service Center Date: NOV 01 2007
[WAC 05 134 70149]

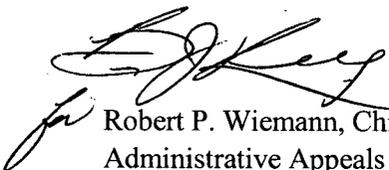
IN RE: Applicant: [REDACTED]

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

ON BEHALF OF APPLICANT: SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to
the office California Service Center. 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, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The applicant is stated to be 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 record reveals that the applicant filed an initial TPS application on September 17, 2003, under CIS receipt number SRC 04 001 54062. The Texas Service Center Director denied that application due to abandonment, on April 27, 2004, because the applicant failed to respond, within 30 days, to a December 30, 2003 notice of intent to deny in which the applicant was requested to submit evidence to establish his continuous residence, and his continuous physical presence in the United States. A denial due to abandonment may not be appealed; however, an applicant may file a motion to reopen under 8 C.F.R. § 103.5 within 30 days of the denial decision. The record does not reflect that the applicant filed a motion to reopen.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on February 11, 2005, under CIS receipt number WAC 05 134 70149, and indicated that he was filing a new late initial application for TPS. The Director, California Service Center, categorized this application as a re-registration for TPS, and denied the application on July 31, 2005, because the applicant's initial TPS application had been denied and the applicant was not eligible to re-register for TPS.

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 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. The record reveals that the applicant filed this TPS application with Citizenship and Immigration Services (CIS) on February 11, 2005.

To qualify for late registration, the applicant must provide evidence that during the initial registration period he or she 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 or she 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 or her burden of proof, the applicant must provide supporting documentary evidence of eligibility apart from his or her own statements. 8 C.F.R. § 244.9(b).

On appeal, the applicant re-asserts his eligibility for TPS; and states that he is eligible to file a late TPS application as the minor child of TPS registrants. With his appeal, the applicant submits documentation primarily establishing the present TPS status of his parents.

While an applicant who is the spouse or child of a TPS recipient may be eligible for late initial registration, the applicant must meet all of the requirements for TPS. It is noted that the record reflects that the applicant was the minor child of TPS registrants. Therefore, the applicant has established that he has met the criteria for late registration described in 8 C.F.R. § 244.2(f)(2).

However, the applicant has not established his continuous residence and continuous physical presence in the United States during the requisite periods. While the regulations may allow children of aliens who are TPS eligible to file their applications after the initial registration period had closed, these regulations do not relax the requirements of eligibility for TPS. It is noted, for example, that the record does not contain evidence for the period prior to September 2002. Although the TPS applications for both of the applicant's parents indicate that the applicant was in the United States, his parents' initial applications were not filed until September 9, 2002. In that the applicant claims that he has been in the United States since May 7, 2000, it is reasonable to expect that the applicant would have some type of contemporaneous evidence to establish the requisite continuous residence and physical presence requirement; however, no such evidence has been provided. Consequently, for this reason, the director's decision to deny the application for temporary protected status will be affirmed.

It is also noted that if the applicant is filing an application as a re-registration, a previous grant of TPS must have been afforded the applicant, as only those individuals who are granted TPS must register annually. In addition, the applicant must continue to maintain the conditions of eligibility. 8 C.F.R. § 244.17.

In this case, the applicant has not previously been granted TPS. Therefore, he is not eligible to re-register for TPS. Consequently, the director's decision to deny the application 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 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.