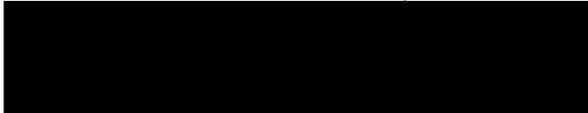




U.S. Citizenship
and Immigration
Services

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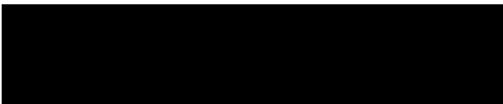
Office: VERMONT SERVICE CENTER

Date: NOV 05 2007

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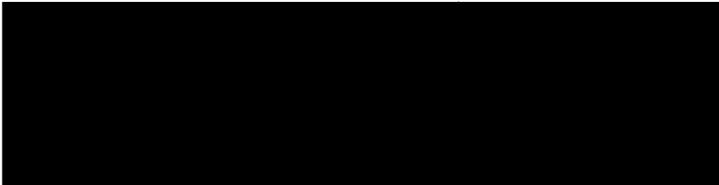
IN RE:

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 Vermont 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, Vermont Service Center (VSC), and is now before the Administrative Appeals Office on appeal. The appeal will be sustained.

The applicant is a native and citizen of El Salvador who is applying for 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 because his asylum application was dismissed on June 12, 2003, and he had not filed for TPS within 60 days of the dismissal.

On appeal, the applicant's representative explains that the applicant was the dependant husband on the pending asylum application of his wife. The representative states that the applicant had no knowledge that his wife's asylum application was withdrawn on June 11, 2003, until he attempted to renew his asylum based Form I-766, Employment Authorization Card, and that renewal was denied in June 2004.

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 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 section 244.3;
- (e) Is not ineligible under 8 C.F.R. § 244.4; and
- (f) (1) Registers for TPS 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 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 application with Citizenship and Immigration Services on July 17, 2004.

To qualify for late registration, an 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 applicant's and his wife's record (A94 121 108) reflect that he was included in her asylum application after their marriage on May 29, 1998, and that he received a series of employment authorization cards as the spouse of an asylum applicant. The record also contains a copy of a notification to the applicant dated June 12, 2003, explaining that his asylum application had been dismissed. However, his notification and a parallel notification to his spouse were sent to the wrong address. On June 1, 2004, the VSC Director denied the applicant's application for employment authorization and informed him that his application for asylum in the United States was administratively closed on June 11, 2003. The applicant filed his initial Form I-821, Application for Temporary Protected Status, on July 17, 2004, within 60 days of receiving the director's June 1, 2004, decision notifying him that his application for asylum had been terminated.

The applicant has established that he has met the of the criteria for late registration described in the regulations at 8 C.F.R. § 244.2(f)(2). Therefore, the director's decision will be withdrawn and the application will be approved.

An alien applying for temporary protected status has the burden of proving that he or she meets the above requirements and is eligible under the provisions of section 244 of the Act. The applicant has met this burden.

ORDER: The appeal is sustained and the application is approved.