



U.S. Citizenship
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FILE:



Office: California Service Center

Date: OCT 02 2007

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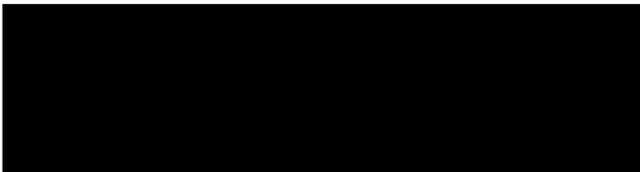
Applicant:



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 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 (CSC). The applicant filed a motion which was denied by the director. The case 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 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 that he was eligible for late registration.

On appeal, counsel asserts the applicant's claim of eligibility for TPS, and submits additional evidence in support of her claim.

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, 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. On July 9, 2002, the Attorney General announced an extension of the TPS designation until September 9, 2003. Subsequent extensions of the TPS designation has been granted by the Secretary of the Department of Homeland Security, with validity until September 9, 2008, upon the applicant's re-registration during the requisite time period.

The initial registration period for Salvadorans was from March 9, 2001, through September 9, 2002. The record reveals that the applicant filed his application with Citizenship and Immigration Services (CIS), on May 4, 2005, after the initial registration period had closed.

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 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 February 27, 2006, the applicant was requested 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 date of entry to the United States in order to comply with the continuous residence requirements. In addition, the applicant was requested to submit photographs. In response, counsel submitted copies of the following: a notice dated January 9, 1996; the Social Security card, Iowa State Non-Driver ID and Employment Authorization Document (EAD) of the applicant's mother, [REDACTED]; the applicant's El Salvadoran birth certificate with an English translation; the applicant's Employment Authorization Documents (EADs); a notice dated February 2, 2005, regarding his mother's permanent residence card; and his Notice to Appear dated March 19, 1998.

On July 4, 2006, the director denied the application because the applicant failed to establish his eligibility for TPS late registration. On August 4, 2006, counsel filed a motion to reopen which was dismissed by the director on September 12, 2006. The director noted in his decision that the asylum application of the applicant's mother was

withdrawn on November 16, 2004, and that there was no evidence to establish that the applicant was ever added as a dependent on her application.

On appeal, counsel asserts the applicant's eligibility for TPS and states that the applicant is eligible under TPS late registration. Counsel also states that she will be submitting a brief within 30 days; however, as of the date of this notice, no additional evidence and/or brief has been included in the record. Therefore, the record will be considered complete.

A review of the record of the applicant's mother, [REDACTED] reflects that she was granted permanent residence status on November 16, 2004, and that she withdrew her application for asylum on July 15, 2004. At the time the applicant filed his application for TPS, his mother was already a lawfully admitted permanent resident, not an alien currently eligible to be a TPS registrant; therefore, the applicant is not eligible for late registration. Furthermore, the regulations require that a late registration be filed within a 60-day period immediately following the expiration or termination of conditions described in paragraph (f)(2) of this section. 8 C.F.R. § 244.2(g). In this case, the application for TPS was filed on March 4, 2005, more than 60 days after the applicant's mother withdrew her asylum application on July 15, 2004. In addition, there is no indication that the applicant was added to her asylum application, and the applicant has not had a pending asylum application with CIS. The applicant has failed to establish that he has met any of the criteria for late registration described in 8 C.F.R. § 244.2(f)(2). Consequently, the director's conclusion that the applicant had failed to establish his eligibility for late registration will be affirmed.

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.