



U.S. Citizenship
and Immigration
Services

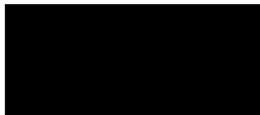
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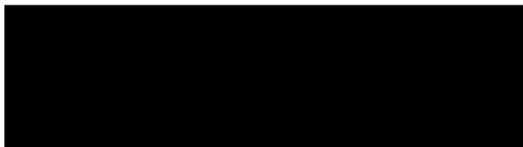
IN RE:

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 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, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant claims 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 director denied the application because the applicant failed to establish that he is a national of El Salvador. The director also denied the application because the applicant failed to establish his qualifying continuous residence and continuous physical presence in the United States. In addition, the director denied the application because the applicant failed to establish his eligibility for TPS late registration. The applicant also failed to submit an identity document.

On appeal, counsel asserts the applicant's eligibility for TPS and submits some evidence in an attempt to establish this 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.

The initial registration period for Salvadorans was from March 9, 2001, through September 9, 2002. The record reveals that the applicant filed the instant application with Citizenship and Immigration Services (CIS) on August 4, 2006.

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 January 16, 2007, the director requested the applicant to submit evidence to establish his eligibility for TPS late registration. The director also requested the applicant to submit evidence to establish that he is a national of El Salvador. In addition, the director requested the applicant to submit evidence to establish his continuous residence since February 13, 2001, and his continuous physical presence in the United States since March 9, 2001. In addition, the applicant was requested to submit a copy of an identity document. The director determined that the applicant did not respond to this request and therefore, denied the application on March 2, 2007.

On appeal, counsel asserts the applicant's eligibility for TPS and submits the following documentation: an employment letter dated March 16, 2007, from Burton Hersh stating that the applicant has been employed since October 29, 2002; a copy of the applicant's college transcript reflecting courses taken in 1999, 2001, and 2002; copies of the applicant's Internal Revenue Service (IRS) Forms W-2, Wage and Tax Statements, for the years 2002 to 2006; and copies of the applicant's Employment Authorization Documents (EAD's) issued since December 8, 1994.

The first issue in these proceedings is whether the applicant has established his eligibility for TPS late registration.

A review of the record reflects that the applicant's asylum application, filed on December 17, 1993, is pending before CIS. As such, the applicant has established that he has met one of the criteria for late registration described in 8 C.F.R. § 244.2(f)(2). Therefore, the director's decision to deny the application on this ground will be withdrawn.

The second issue in this proceeding is whether the applicant has established his continuous residence in the United States since February 13, 2001, and his continuous physical presence in the United States since March 9, 2001, to the date of filing his application.

On appeal, counsel provides copies of the applicant's EADs reflecting that he has been authorized employment continuously since 1994. In addition, counsel provides copies of the applicant's college transcripts which reflect that the applicant had been a student from 1999 to 2002. A review of the evidence establishes that the applicant has continuously resided in the United States since February 13, 2001, and has been continuously physically present in the United States since March 9, 2001, to the date of filing his application. Therefore, the director's decision to deny the application based on this issue is withdrawn.

The third issue in this proceeding is whether the applicant has established that he is a national of El Salvador.

The applicant claims he is a national of El Salvador. A review of the record, however, reflects that the applicant has not submitted sufficient evidence to establish that he is a national or citizen of El Salvador. 8 C.F.R. § 244.9, states that each application for TPS must be accompanied by evidence of the applicant's identity and nationality.

Sec. 244.9 Evidence.

(a) *Documentation.* Applicants shall submit all documentation as required in the instructions or requested by the Service. The Service may require proof of unsuccessful efforts to obtain documents claimed to be unavailable. If any required document is unavailable, an affidavit or other credible evidence may be submitted.

(1) *Evidence of identity and nationality.* Each application must be accompanied by evidence of the applicant's identity and nationality, if available. If these documents are unavailable, the applicant shall file an affidavit showing proof of unsuccessful efforts to obtain such identity documents, explaining why the consular process is unavailable, and affirming that he or she is a national of the designated foreign state. A personal interview before an immigration officer shall be required for each applicant who fails to provide documentary proof of identity or nationality. During this interview, the applicant may present any secondary evidence that he or she feels would be helpful in showing nationality. Acceptable evidence in descending order of preference may consist of: (Amended 11/16/98; 63 FR 63593)

(i) Passport;

(ii) Birth certificate accompanied by photo identification;
and/or

(iii) Any national identity document from the alien's country of
origin bearing photo and/or fingerprint.

Although the record contains a copy of the applicant's Florida Driver License issued on April 7, 2004, the applicant has not provided sufficient evidence that he is a national of El Salvador. Consequently, the director's decision to deny the application on this ground will be affirmed and the applicant remains ineligible for TPS.

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 this burden.

ORDER: The appeal is dismissed.