



U.S. Citizenship  
and Immigration  
Services

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[REDACTED]

FILE: [REDACTED]  
[EAC 06 35379027]

OFFICE: Vermont Service Center

DATE: SEP 05 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 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 (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 VSC director denied the application because the applicant failed to establish he was eligible for late registration. The director also determined that the applicant failed to establish he had continuously resided in the United States since February 13, 2001 and had been continuously physically present in the United States since March 9, 2001.

On appeal, counsel argues that the applicant is eligible for late registration because “he has had applications for relief pending since March 22, 2001, when he filed his original (initial) TPS application, and has renewed his application with every subsequent TPS re-registration filing requirements.” Counsel also submits documents that have previously been submitted or introduced into the record.

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 the current application with Citizenship and Immigration Services (CIS) on October 12, 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).

The director determined that the applicant had failed to establish he was eligible for late registration and denied the application on April 24, 2007. The applicant filed the current appeal from that decision on May 24, 2007. On appeal, counsel argues that the applicant is eligible for late registration because he has had applications pending since March 22, 2001, when he filed his initial TPS application, and has renewed his application with every subsequent TPS re-registration filing requirements. He has, therefore, failed to establish that he has met the criteria described in 8 C.F.R. § 244.2(b) and (c). Consequently, the director's decision to deny the application for temporary protected status on these grounds will also be affirmed.

A review of the record reveals that the applicants' initial TPS application was filed on March 22, 2001 with the Nebraska Service Center (NSC) under receipt number LIN 01 144 51348. The NSC director denied the application on September 17, 2001, due to abandonment because the applicant failed to appear for a fingerprinting appointment. Since the application was denied due to abandonment there was no appeal available; however, the applicant could have filed a request for a motion to reopen within 30 days from the date of the denial. The applicant did not file a motion to reopen during the requisite timeframe. After a review of the record the Chief, AAO concurs with the NSC director's denial decision.

Counsel also asserts that the TPS application was pending during the initial registration period and is considered an application or "any relief from removal" thus coming within the guidelines of 8 C.F.R. § 244.2(f)(2)(ii) as a qualifier for late registration.

Contrary to counsel's assertions made on appeal, while TPS may confer benefits that temporarily delay the alien's removal, the temporary benefits of TPS do not equate to "relief from removal" obtained through an adjustment of status, cancellation of removal, discretionary relief, recommendation against deportation or suspension of deportation.

Taking counsel's argument to its logical extreme, an alien who had abandoned his initial application could file a new application within 60 days after the abandonment, abandon the new application, and perpetuate this contempt of the application process indefinitely; thus enjoying the benefits of Temporary Protected Status without ever being approved for TPS and/or successfully completing the application process. The provisions for late registration detailed in 8 C.F.R. § 244.2(f)(2) were not created to allow aliens who had abandoned their initial applications to circumvent the normal application and adjudication process. Rather, these provisions were created in order to ensure that TPS benefits were made available to aliens who did not register during the initial registration period for the various circumstances specifically identified in the regulations. Having an application for TPS pending during the initial registration period does not render an alien eligible for late registration.

The applicant has not submitted any evidence to establish that he has met any of the criteria for late registration described in 8 C.F.R. § 244.2. Consequently, the director's decision to deny the application for TPS on this ground will be affirmed.

The applicant has also submitted evidence in an attempt to establish his qualifying residence and physical presence in the United States. However, this evidence does not mitigate the applicant's failure to file his Form I-821, Application for Temporary Protected Status, within the initial registration period.

On appeal, counsel submits photocopies of the following documents into the record:

1. An employee identification card with Perdue Farms Incorporated with a notation of the applicant's hiring date on August 20, 2001 on the reverse side.
2. A passport issued by the El Salvadoran consulate in Chicago, Illinois on July 20, 1999.
3. A receipt for a bank money dated November 24, 2000.
4. An Employment Authorization Card valid from May 5, 2001 until September 9, 2002.
5. A driver's license issued by the state of Indiana on March 25, 2006.
6. A TPS application with receipt number LIN 01 144 51348 received on March 22, 2001.
7. Bar codes of receipt number LIN 01 144 51348.
8. A Notice of Denial of Form I-821 issued by the NSC dated September 17, 2001 for LIN 01 144 51348.
9. Form I-821 signed on March 9, 2001.
10. An electronic data printout related to LIN 01 144 51348.

11. A page from the Applicant's El Salvadoran passport showing a smudged fingerprint.
12. A letter from the Freedom Of Information Act Officer at the National Records Center of the Immigration and Naturalization Service (INS) dated April 4, 2003.
13. A fee receipt for LIN 01 144 51348 dated April 6, 2001.
14. An envelope addressed to the Nebraska Service center with a stamp dated March 19, 2001.
15. A page from the Applicant's El Salvadoran passport with a stamp of the consulate in Chicago, Illinois.
16. An English translation of the applicant's El Salvadoran identity card issued on May 6, 1996.
17. A "cedula" issued on May 6, 1996 written in the Spanish language.
18. A CIS correction worksheet for file number [REDACTED] indicating a last name of [REDACTED] and middle name of [REDACTED].
19. An INS Central Index System Search/Display for file number [REDACTED] dated May 7, 2001.
20. An INS Central Index System Search/Display for file number [REDACTED] dated April 11, 2001.
21. An adjudication worksheet for Form I-821.
22. Address labels for the applicant in care of [REDACTED] Washington, Indiana 57501.
23. Bar codes for receipt number LIN 01 144 51323.
24. A Form I-765 filed by the applicant on or about April 6, 2001 with receipt number LIN 01 144 51323 and approved on May 5, 2001.
25. An illegible black rectangular shape.
26. A FedEx shipping label from counsel to the Vermont Service Center date stamped as received on May 24, 2007.

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. Therefore, only documents with dates that precede the above are relevant and will be reviewed below.

The photocopy of a money order receipt dated November 24, 2000, provided by the applicant is not supported by any other corroborative evidence. While 8 C.F.R. § 244.9(a)(2)(vi) specifically states that additional documents such as money order receipts "may" be accepted in support of the applicant's claim, the regulations do not suggest that such evidence alone is necessarily sufficient to establish the applicant's qualifying residence or physical presence in the United States.

While the applicant indicates on his first TPS application that he entered the United States on July 30, 1996, it is reasonable to expect that the applicant would have some other type of contemporaneous evidence to his claim, such as rental agreements, utility bills, payroll records, and other documents normally identified with establishing a residence in the United States. However, no such evidence has been provided. The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. 8

C.F.R. § 244.9(b). It is determined that the documentation submitted by the applicant is not sufficient to establish that he satisfies the residence and physical presence requirements described in 8 C.F.R. §§ 244.2(b) and (c). Consequently, the application will also be denied for these reasons.

The record also reveals that the applicant filed a TPS application with the California Service Center (CSC) on February 11, 2005, under receipt number WAC 05 134 70826, and indicated that he was re-registering for TPS. The CSC director denied the re-registration application on July 27, 2005, because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS. The applicant filed an appeal from that denial decision on August 23, 2005. However, the Chief, AAO, dismissed the appeal on August 22, 2006, because the applicant failed to establish that he was eligible for late registration. The Chief, AAO further determined that the applicant had failed to establish his continuous physical presence and continuous residence in the United States during the time periods required by the regulations.

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 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.