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U.S. Citizenship
and Immigration
Services

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FILE:



OFFICE: Vermont Service Center

DATE:

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SEP 10 2007

[EAC 07 002 77695]

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:

Self-represented

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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Vermont Service Center (VSC). It is now on appeal before the Administrative Appeals Office (AAO). The appeal will be dismissed.

The applicant is a 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 on the grounds that the applicant failed to establish that he was eligible for late TPS registration, that he had been a continuous resident of the United States since February 13, 2001, and that he had been continuously physically present in the United States from March 9, 2001, to the date the TPS application was filed.

On appeal the applicant submits previously submitted documentation as evidence that he has been in the United States since November 1, 2000.

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.

El Salvadoran nationals applying for TPS 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 applicant filed his Form I-821, Application for Temporary Protected Status, with the VSC on September 4, 2006 – four years after the close of the initial registration period.

To qualify for late registration, the applicant must provide evidence that during the initial registration period he satisfied at least one of the criteria enumerated 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. *See* 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. *See* 8 C.F.R. § 244.9(b).

On January 10, 2007, the director issued a Notice of Intent to Deny (NOID) in which the applicant was requested to submit evidence establishing his eligibility for late registration, his residence in the United States since February 13, 2001, and his physical presence in the United States from March 9, 2001, to the date his TPS application was filed in 2006, as well as a copy of his passport, national identity document, or other type of photo identity document. In response the applicant submitted copies of the biographical page of his El Salvadoran passport, two receipts bearing dates in November and December 2001, and four letters from acquaintances of the applicant in the United States, prepared in August 2006 and February 2007. These materials supplemented some previously submitted documentation – which included money orders dated August 2006 and February 2007, Internal Revenue Service Forms W-2, Wage and Tax Statements, for the years 2003 and 2005, three receipts bearing dates in December 2000, January 2001, and March 2001, and two other letters from acquaintances of the applicant in the United States, prepared in August 2006.

On March 23, 2007, the director denied the application. While finding that the applicant's passport had established his identity and nationality, the director stated that the applicant had submitted no evidence to establish his eligibility for late TPS registration under 8 C.F.R. § 244.2(f)(2), and insufficient evidence to establish that he had been continuously physically present in the United States from March 9, 2001, to the date his TPS application was filed in September 2006, and continuously resident in the United States since February 13, 2001, as required under section 244(c)(1)(A)(i) and (ii) of the Act.

On appeal the applicant reiterates his contention that he has been physically present in the United States since November 1, 2000, and resubmits copies of documentation already in the record. The applicant did not address the issue of his eligibility for late TPS registration.

Thus, there is still no evidence that the applicant – who filed for TPS four years after the close of the initial registration period for El Salvadoran nationals on September 9, 2002 – is eligible for late registration under any of the criteria enumerated at 8 C.F.R. § 244.2(f)(2). The director's denial of the application on this ground will be affirmed.

In the absence of any further documentation on appeal to support the applicant's claim to have been in the United States since November 1, 2000, the AAO concurs with the director's decision that the applicant has failed to establish his continuous physical presence in the United States from March 9, 2001, to the date of filing for TPS, and his continuous residence in the United States since February 13, 2001, as required for El Salvadoran nationals under section 244(c)(1)(A)(i) and (ii) of the Act and 8 C.F.R. § 244.2(b) and (c). The director's denial will be affirmed on these grounds as well.

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 that burden.

ORDER: The appeal is dismissed.