

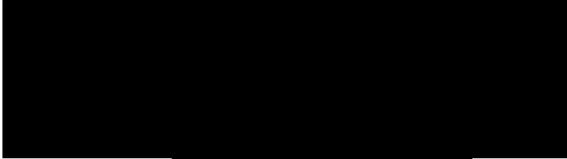
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U.S. Department of Homeland Security
20 Mass. Ave. N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

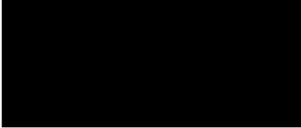
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FILE:



Office: CALIFORNIA SERVICE CENTER Date:

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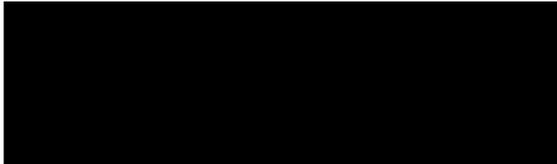
Applicant:



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 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, California Service Center, and is now before the Administrative Appeals Office 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 director denied the application because the applicant failed to establish his eligibility for TPS late registration. The director also denied the application because the applicant failed to establish his qualifying continuous residence and continuous physical presence in the United States.

On appeal, the applicant submits some evidence in an attempt to establish his claim of eligibility for TPS.

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 phrase *continuously physically present*, as defined in 8 C.F.R. § 244.1, means actual physical presence in the United States for the entire period specified in the regulations. An alien shall not be considered to have failed to maintain continuous physical presence in the United States by virtue of brief, casual, and innocent absences as defined within this section.

The phrase *continuously resided*, as defined in 8 C.F.R. § 244.1, means residing in the United States for the entire period specified in the regulations. An alien shall not be considered to have failed to maintain continuous residence in the United States by reason of a brief, casual and innocent absence as defined within this section or due merely to a brief temporary trip abroad required by emergency or extenuating circumstances outside the control of the alien.

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 have been granted by the Secretary of the Department of Homeland Security, with validity until March 9, 2009, 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 the instant application with Citizenship and Immigration Services (CIS) on January 30, 2005.

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 June 19, 2006, 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 his continuous residence since February 13, 2001, and his continuous physical presence in the United States since March 9, 2001.

In response, the applicant submitted the following documentation: a copy of the biographical pages of his El Salvadoran passport; copies of his Internal Revenue Service (IRS), Forms W-2, Tax and Wage Statements, for the years 2002 to 2005; copies of his IRS U.S. Individual Income Tax Returns and California State Income Tax Returns for the years 2002 to 2005; a letter dated June 29, 2006, from [REDACTED] stating that he had known the applicant since February 1982, and that they were roommates from 2001 to 2003 at [REDACTED] California; and a copy of his Nevada lease agreement for the period September 12, 2005 to June 31, 2006.

The director determined that the applicant did not establish his eligibility for TPS late registration. The director also determined that the applicant did not establish his qualifying continuous residence and continuous physical presence in the United States. Therefore, the director denied the application on September 13, 2006.

On appeal, the applicant provides copies of previously submitted tax documentation; a copy of a money transfer receipt dated January 18, 2000; copies of his El Salvadoran birth certificate with an English translation; a rejection notice from CIS dated October 5, 2006; and a letter dated September 25, 2006, from [REDACTED] stating that he had known the application since 1982, and that they were roommates from 2001 to 2003 at [REDACTED]

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

A review of the record reflects that 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(f)(2). Consequently, the director's conclusion that the applicant had failed to establish his eligibility for late registration will be affirmed.

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.

The statements from [REDACTED] regarding the applicant's presence in the United States are not supported by corroborative evidence during the beginning of the periods for continuous residence and continuous physical presence. The applicant claims to have entered the United States on February 5, 1982. It is reasonable to believe that the applicant would have sufficient evidence to establish his residence in the United States since that time.

Further, a review of the applicant's other file number, A95 120 889, reflects that the applicant was apprehended by United States Border Patrol on June 15, 2002, near Naco, Arizona. The record also reveals that the applicant stated to the agents that he had left El Salvador on May 20, 2002, en route to the United States. Therefore, the applicant could not have met the requirements that he had continuously resided in the United States since February 13, 2001, and he had been continuously physically present in the United States since March 9, 2001. The applicant has, thereby, failed to establish that he has met the criteria described in 8 C.F.R. § 244.2(b) and (c). Consequently, the director's conclusion that the applicant had failed to establish his continuous residence and continuous physical presence in the United States during the qualifying periods will also be affirmed.

It is also noted that the applicant was granted voluntary departure from the United States on or before January 21, 2003, with an alternate order of removal to El Salvador, on November 22, 2002, by an Immigration Judge at Los Angeles, California, under file number [REDACTED]

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.