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U.S. Citizenship  
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[REDACTED]

FILE:

[REDACTED]

OFFICE: Vermont Service Center

DATE:

SEP 18 2007

[EAC 07 024 72094]

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:

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.

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 his TPS application was filed.

On appeal the applicant asserts that he has been in the United States since February 11, 2001, but submits no additional documentation.

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 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).

The applicant filed his first Form I-821, Application for Temporary Protected Status, with the California Service Center (CSC) on March 10, 2005 [WAC 05 224 83066] – two and one-half years after the close of the initial registration period for El Salvadoran nationals. 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. On May 12, 2006, by the CSC Director denied the application on the ground that the applicant failed to establish that he was eligible for late TPS registration. The applicant filed an appeal on July 3, 2006, which was rejected by the CSC director on August 14, 2006, because it was not filed within the 33-day period prescribed in the regulations.

On October 22, 2006, the applicant filed the current TPS application with the VSC [EAC 07 024 72094], which he again identified as his initial application for TPS. As evidence of his residence and physical presence in the United States the applicant submitted copies of various documents including two “Farm Labor Contractor” documents dated January 26, 2001 and April 13, 2002, which had previously been submitted with the applicant’s first TPS application, and an affidavit from an individual in California, dated August 30, 2006, who claims to have employed the applicant as a landscaper from February to November 2001.

On April 10, 2007, the director denied the application on the grounds 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 had failed to establish his continuous physical presence in the United States from March 9, 2001, to the date his TPS application was filed in March 2006, and his continuous residence in the United States since February 13, 2001, as required under section 244(c)(1)(A)(i) and (ii) of the Act. The director noted conflicting evidence in the record such as the issuance of a national identity card to the applicant in El Salvador on March 5, 2003, at a time he claims to have been living in the United States.

On appeal the applicant asserts that he has maintained continuous residence and continuous physical presence in the United States since he entered the country on February 11, 2001, but submits no further documentation. The applicant did not provide any explanation for having been issued a national identity card in El Salvador in March 2003, two years after he claims to have been living in the United States. Nor did he address the issue of his eligibility for late TPS registration.

Thus, there is still no evidence that the applicant – whose current application for TPS was filed more than 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 February 2001, 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.