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U.S. Citizenship  
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**SEP 20 2007**

FILE:



Office: VERMONT SERVICE CENTER

Date:

[EAC 06 327 70467]

IN RE:

Applicant:



APPLICATION:

Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act (the 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 Director, Vermont Service Center, denied the application and the application is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant claims to be a citizen of El Salvador who seeks 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 he was eligible for late registration. The director also found that the applicant had failed to establish his qualifying continuous residence and continuous physical presence in the United States.

On appeal, the applicant reasserts his claim to 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 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.

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 Salvadorans must demonstrate continuous residence in the United States since February 13, 2001, and continuous physical presence since March 9, 2001.

To qualify for late registration, the applicant must provide evidence that during the initial registration period he or she fell within at least one of the four provisions described in 8 C.F.R. § 244.2(f)(2) above.

The burden of proof is on 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 Citizenship and Immigration Services (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 record reflects that the applicant filed a TPS application [EAC 01 172 54067] on April 9, 2001, during the initial registration period. That application was considered abandoned and denied on June 20, 2002, for failure to appear for fingerprinting. Since the application was denied due to abandonment there was no appeal available; however, the applicant was informed that he could file a motion to reopen within 30 days from the date of the denial. The applicant was informed that a motion to reopen had to be filed with evidence that the director's decision was made in error based on one of three specific criteria. The applicant filed a timely motion to reopen, but did not establish any of the required criteria. The director dismissed the motion to reopen on May 9, 2003.

On July 24, 2003, the applicant filed a subsequent TPS application [EAC 03 220 50214]-about one year after the close of the initial registration period for Salvadorans. The director accepted it under the late filing provisions for TPS. On August 23, 2003, the director requested that the applicant submit evidence establishing his eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2). The director also requested that the applicant submit evidence establishing his residence in the United States from February 13, 2001, to the date of filing of the late-filed application. In response, the applicant submitted his birth certificate with translation; four letters from people who knew him; and, copies of applications filed with CIS and corresponding receipt notices. On December 3, 2003, the director determined that the applicant had failed to establish he was eligible for late registration and denied the application. On December 11, 2003, the applicant filed an appeal with the AAO which was subsequently dismissed on August 2, 2005.

On May 4, 2005, the applicant filed a TPS application [WAC 05 216 76449] with the California Service Center (CSC). The CSC director accepted it under the re-registration provisions for TPS and found the applicant ineligible for re-registration because his 2003 application had been denied.

The applicant's initial Form I-821 [EAC 01 172 54067] was properly filed on April 9, 2001. That initial application was denied by the director on June 20, 2002. Any Form I-821 application subsequently submitted by the same applicant after an initial application is filed and a decision rendered, must be considered as either a request for annual registration or as a new filing for TPS benefits.

If the applicant is filing an application as a re-registration, a previous grant of TPS must have been afforded the applicant, as only those individuals who are granted TPS must register annually. In addition, the applicant must continue to maintain the conditions of eligibility. 8 C.F.R. § 244.17.

The applicant filed subsequent applications on July 24, 2003 [EAC 03 220 50214] and May 4, 2005 [WAC 05 216 76449]. Since the initial application was denied on June 20, 2002, the subsequent applications cannot be considered as re-registrations. Therefore, this application can only be considered as a late registration. The CSC director denied the 2005 application on March 1, 2006. On June 26, 2006, the applicant filed an appeal from that decision with the AAO. On June 26, 2006, that appeal was rejected as untimely filed.

On August 8, 2006, the applicant filed the current TPS application [EAC 06 327 70467]. The director denied the application because the applicant failed to establish eligibility for late registration and to establish his qualifying continuous residence and continuous physical presence. On appeal, the applicant asserts that he needs to legalize his status in order to support his family and submits an envelope addressed to him date-stamped January 10, 2001, and a 2000 Internal Revenue Service (IRS) Form W-2, Wage and Tax Statement.

The applicant has submitted evidence in an attempt to establish his qualifying residence and physical presence in the United States. The documents submitted by the applicant do not overcome his failure to file his TPS application within the initial registration period. 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.

Furthermore, the documents in the record fail to establish the applicant's qualifying continuous residence and continuous physical presence. The four letters from individuals who know him can be given little evidentiary weight as they are not sworn to and do not provide full information and/or complete details relating to the applicant's continuous residence and continuous physical presence, as required by 8 C.F.R. § 244.9(a)(2)(vi). The Form W-2 is of little probative value and can be given little evidentiary weight as it shows earnings for 2000, establishing that the applicant worked sometime during 2000, but the applicant did not offer corroborating evidence to show which dates he worked or if he worked during the dates required for TPS eligibility. The envelope is not supported by any other corroborative evidence. The applicant claims to have lived in the United States since about June 1999. It is reasonable to expect that the applicant would have some other type of contemporaneous evidence to support this single envelope; 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 director's decision to deny the application for TPS on these grounds will also be affirmed.

Beyond the decision of the director, the applicant has not submitted a photo identity document as requested by the director and of the type set forth in 8 C.F.R. § 244.9(a)(11) to establish his identity. The application must be denied for this additional reason.

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.