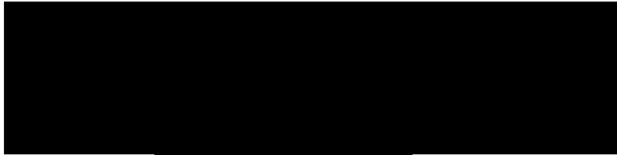




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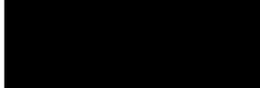
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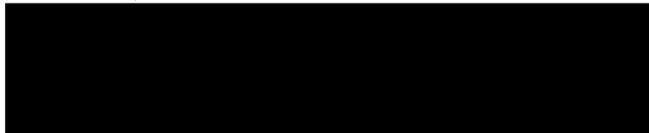
OFFICE: VERMONT SERVICE CENTER

DATE: SEP 24 2007

[EAC 07 006 75889]

IN RE:

Applicant:



APPLICATION:

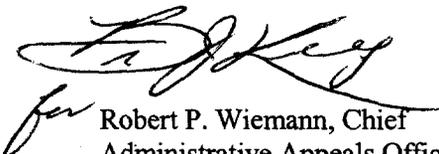
Application for Temporary Protected Status under Section 244 of the Immigration
and Nationality Act, 8 U.S.C. § 1254

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.


for Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Vermont 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 had failed to respond to a request to submit evidence to establish that he: (1) was eligible for late registration; and (2) had continuously resided in the United States since February 13, 2001, and had been continuously physically present from March 9, 2001, to the date of filing the application.

On appeal, the applicant submits a statement and additional evidence.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an alien who is a national of a foreign state designated by the Attorney General is eligible for temporary protected status 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 § 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 condition described in paragraph (f)(2) of this section.

The term *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.

The term *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.

Persons applying for TPS offered to El Salvadorans must demonstrate that they have continuously resided in the United States since February 13, 2001, and that they have been continuously physically present 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, with the latest extension valid until March 9, 2009, upon the applicant's re-registration during the requisite time period.

The initial registration period for El Salvadorans was from March 9, 2001, through September 9, 2002. The record shows that the applicant filed his initial application on October 6, 2006.

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 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 first issue in this proceeding is whether the applicant is eligible for late registration.

The record of proceeding confirms that the applicant filed his application after the initial registration period had closed. 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.

In a notice of intent to deny dated February 6, 2007, the applicant was requested to submit evidence establishing his eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2). The director determined that the applicant had failed to respond to his request for additional evidence and denied the application on March 29, 2007.

On appeal, the applicant submits a copy of an acknowledgment of receipt of his asylum application, Form I-589, on December 8, 1995, by the Asylum Office in Anaheim, California. He asserts that the asylum application remains pending with USCIS.

A review of the record indicates that December 8, 1995, the applicant filed Form I-589, Application for Asylum and for Withholding of Deportation. Despite the applicant's assertion that his asylum application remains pending, the record shows that the asylum case was administratively closed on August 6, 2005, based on the applicant's failure to appear for a scheduled interview regarding his asylum application on July 22, 2005. As provided in 8 C.F.R. § 244.2(g), the applicant had a 60-day period immediately following the denial of the asylum application, or immediately following the expiration or termination of conditions described in 8 C.F.R. § 244.2(f)(2)(ii), to file an application for late registration under TPS. The TPS application, in this case, was not filed until October 6, 2006.

The applicant has failed 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 decision to deny the application on this ground will be affirmed.

The next issue in this proceeding is whether the applicant has established his continuous residence in the United States since February 13, 2001, and continuous physical presence from March 9, 2001, to the date of filing the TPS application.

In a notice of intent to deny dated June 21, 2004, the applicant was requested to submit additional evidence establishing his qualifying continuous residence and continuous physical presence in the United States. The director determined that the applicant had failed to respond to his request for additional evidence and denied the application on March 29, 2007.

On appeal, the applicant submits:

1. A copy of an El Salvadoran passport issued to the applicant in El Salvador on March 13, 1995.
2. Copies of billing statements from Pacific Bell dated June 26, 2000 (account number [REDACTED] S 8066; no name or address was listed on the statement); dated April 9, 2001 (account number [REDACTED]; no name or address was listed on the statement); dated October 8, 2001 and November 8, 2001 (account number [REDACTED] the applicant's name appears on the October 8 statement).
3. Copies of billing statements from Los Angeles Department of Water and Power dated November 16, 2000; January 20, 2001; September 17, 2001; and November 11, 2001.
4. A copy of a "Timesheet" for period from December 31, 2001 through January 13, 2002. The name and address of the employer are not listed on the timesheet.
5. Copies of pay statements issued by Environmental Concept, Venice, California, dated March 1, 2002, March 15, 2002, and June 7, 2002; and a copy of a "Declaration" from Environmental Concept listing the applicant's gross earnings from January 2002 through June 2002.

The Pacific Bell statements (detailed in No. 2 above) listed different account numbers and did not contain the name of the applicant; therefore, the only acceptable documents are the October 8, 2001 and November 8, 2001 statements. Additionally, the evidence listed in No. 4 above is also not acceptable as it did not contain the name and address of the employer. The evidence listed in No. 3 above establishes the applicant's presence in the United States prior to the requisite period (since February 13, 2001). The applicant also furnished evidence to establish residence and physical presence from September 17, 2001 to June 2002 (Nos. 3 and 5 above).

However, no credible evidence was furnished to establish residence and physical presence from February 13, 2001 to August 2001, and from July 2002 to the date of filing the application on October 6, 2006.

Accordingly, the applicant has failed to establish that he has met the criteria for continuous residence in the United States since February 13, 2001, and continuous physical presence since March 9, 2001, as described in 8 C.F.R. § 244.2(b) and (c). Consequently, the director's decision to deny the application on this ground will also be affirmed.

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 temporary protected status 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.