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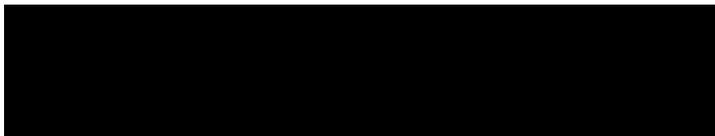
U.S. Department of Homeland Security  
20 Massachusetts Ave., N.W., Rm. 3000  
Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

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FILE: [REDACTED]  
[EAC 06 319 73253]

OFFICE: Vermont Service Center

DATE: FEB 26 2008

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.

  
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 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 he was eligible for late registration. The director also found that the applicant had failed to establish his continuous physical presence in the United States during the requisite period.

On appeal, the applicant asks CIS to help keep his family together in the United States since he has a US-born daughter and his mother is a permanent resident.

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 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 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. The designation of TPS for El Salvadorans has been extended several times, with the latest extension valid until March 9, 2009, upon the applicant's re-registration during the requisite time period.

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 initial registration period for Salvadorans was from March 9, 2001, through September 9, 2002. The record reveals that the applicant filed his application with Citizenship and Immigration Services (CIS) on August 2, 2006. 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.

On October 17, 2006, 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 applicant was also requested to submit evidence establishing his qualifying continuous residence and continuous physical presence in the United States. The

applicant, in response, submitted a statement in which he asserted that he is eligible for late registration because he had an application for asylum pending during the initial registration period.

If the qualifying condition or application has expired or been terminated, the individual must file within sixty (60) days of the expiration or termination of the qualifying condition in order to be considered for late initial registration.

The director determined that the applicant had failed to establish he was eligible for late registration and denied the application on May 7, 2007.

On appeal, the applicant asks CIS to review his file for proper adjudication and asserts that he is eligible for TPS based on his asylum claim.

The record reflects that the applicant's asylum application was withdrawn on April 4, 2006, and the applicant did not file this application until August 16, 2006. Therefore, as the applicant did not file his application within the required sixty (60) days of the expiration or termination of his qualifying condition, the applicant is not eligible to take advantage of TPS late initial filing. The applicant has not established 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 physical presence in the United States from March 9, 2001, to the date of filing of the TPS application.

As stated above, the applicant was requested on October 17, 2006 to submit evidence establishing his qualifying continuous physical presence in the United States. The applicant, in response, provided the following documentation:

1. A copy of his El Salvadoran passport;
2. A copy of the applicant's Salvadoran birth certificate and an English translation;
3. Copies of the applicant's EAD Cards dated October 22, 2001 to October 21, 2002, October 22, 2003 to October 21, 2004, September 20, 2004 to September 19, 2005, and September 20, 2005 to September 19, 2006;
4. A copy of the applicant's Social Security card;
5. A copy of a Student ID issued by the District of Columbia Public Schools for the school years 2001 to 2002;
6. A copy of a District of Columbia Immunization Record showing inoculations on September 6, 2001 and January 10, 2002.

On appeal, the applicant reasserts his claim of eligibility for TPS.

The applicant submitted copies of his employment authorization cards (EAD's) in an attempt to establish continuous physical presence in the United States, however those EAD's do not encompass the entire time requested. There is a gap of one (1) year, from October 22, 2002 to October 21, 2003. Moreover, the

applicant has not submitted any contemporaneous evidence to show that he had been continuously physically present in the United States from March 9, 2001 to August 15, 2006, the date he filed his application for TPS.

The applicant has not submitted sufficient credible evidence to establish his continuous physical presence in the United States since March 9, 2001. He has, therefore, failed to establish that he has met the criteria described in 8 C.F.R. § 244.2(b). Consequently, the director's decision to deny the application for TPS on these grounds will also be affirmed.

Beyond the decision of the director, while the director stated in the denial notice that the applicant had established his continuous residence in the United States, the record does not support that conclusion. The record contains a June 25, 2001 letter from [REDACTED] requesting that the applicant be added to his mother's application for political asylum. The letter stated the dependent (the applicant) "entered the United States without inspection on May 9, 2001 at Laredo, Texas." The accompanying form "Request to Add Dependent" also states the applicant's date and place of entry into the United States as May 9, 2001 at Laredo, Texas. In addition, the applicant stated on the G-325A, Biographic Information form, that he resided in El Salvador until May 2001. Therefore, the applicant has not continuously resided in the United States since February 13, 2001 and he has also failed to establish that he has met the criteria described in 8 C.F.R. § 244.2(c).

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.