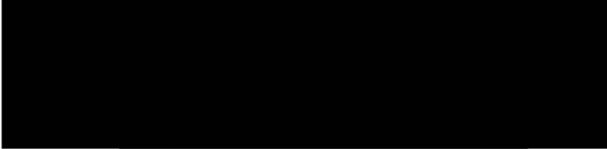




U. S. Citizenship
and Immigration
Services

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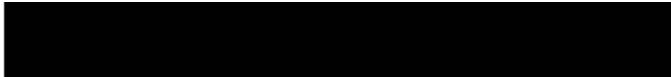
Office: CALIFORNIA SERVICE CENTER

Date: FEB 26 2008

[SRC 01 277 55008]
[WAC 05 210 85631]

INRE:

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 California Service Center. Any further inquiry must be made to that office.


Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: An initial application was denied by the Director, Texas Service Center (TSC). The re-registration application was then denied by the Director, California Service Center (CSC). The initial application will be reopened, *sua sponte*, by the Chief, Administrative Appeals Office (AAO). The matter is now before the AAO on appeal. The director's decision will be withdrawn and the appeal will be sustained.

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 record reveals that the applicant filed a TPS application during the initial registration period on September 17, 2001, under receipt number SRC 01 277 55008. The TSC director denied that application on September 16, 2004, due to abandonment because the applicant failed to appear for his scheduled fingerprint appointment.

The applicant filed the current Form I-821, Application for Temporary Protected Status, as a re-registration on February 27, 2005. The CSC director denied this application on August 16, 2005, because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS.

The applicant, on appeal, requests a reconsideration of his TPS application and submits 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 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 entry on or prior to February 13, 2001, 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 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 appeal, the applicant states that he did not know the reason for denial and requests a reconsideration of his TPS application. The applicant also provides copies of the following documentation along with his appeal: his El Salvadoran birth certificate with an English translation; Reliant Energy billing statements dated January 19, 2005 to June 16, 2005; an earnings statement from BRH-Garver Construction, L.P. in Houston, Texas, for the pay period August 8, 2005 to August 14, 2005; pay statements from Kellogg Brown & Root dated January 4, 1999 to September 3, 2004; six Sprint PCS billing statements dated from July 29, 2003 to December 29, 2003; a rent receipt dated December 23, 2004; a billing statement from SBC dated October 30, 2003; seven payment receipts from Southwestern Bell dated March 30, 2002 to October 6, 2002; two Western Union money transfer receipts

dated February 9, 2001 and May 8, 2003; Envios Urgentes receipts dated January 7, 2001; a MoneyGram receipt dated January 21, 2001; and copies of a receipt notice dated September 25, 2001, for his Form I-765, Application for Temporary Protected Status Authorization. The applicant also provided an affidavit dated September 3, 2005, from [redacted] who stated that the applicant lived with him since November 2000.

A review of the record of proceedings reveals that the applicant was fingerprinted, and the most recent FBI criminal history response report dated April 20, 2006, was NON-IDENT.

Further, the record of proceedings contains sufficient evidence to establish the applicant's qualifying continuous residence in the United States since February 13, 2001, and his continuous physical presence since March 9, 2001, to the date of filing his application. Therefore, the TSC director's decision will be withdrawn and the initial application will be approved.

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 met this burden.

ORDER: The TSC director's decision is withdrawn. The appeal is sustained and the applications are approved.