



U.S. Citizenship  
and Immigration  
Services

**identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy**

**PUBLIC COPY**

M1

FILE:

Office: CALIFORNIA SERVICE CENTER

Date:

**JUL 10 2008**

[WAC 04 126 50952, *appeal*]

[WAC 04 023 51012]

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

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, California Service Center, and is now before the Administrative Appeals Office on appeal. The appeal is 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 director denied the application on March 3, 2004, after determining that the applicant had failed to establish he was eligible for late initial registration, and that he had failed to provide evidence to establish his/her identity, nationality, physical presence and continuous residence in the United States.

On appeal, the applicant states:

The reason that I am appealing my case is for the reason that I am under the temporary Protected Status. I was granted Temporary Protected Status by an Immigration Judge on January 12, 1991 in San Francisco, California. I also submitted an application for Temporary Protected Status on September 13, 1991 and October 29, 2003. Enclosed I am sending copies of my first and second application that I submitted as well as I am enclosing copies of the appointments that I had in San Francisco, California, unfortunately I misplaced my decision letter which I have requested by the INS am waiting to receive it.

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 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 section 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 conditions described in paragraph (f)(2) of this section.

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 initial registration period for El Salvadorans was from March 9, 2001, through September 9, 2002. The record shows that the applicant filed his application with Citizenship and Immigration Services on October 29, 2003.

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

The applicant filed a Form I-589, Request for Asylum and for Withholding of Deportation, on July 20, 1995, and that application was pending on October 29, 2003, the date he filed his Form I-821. Therefore the record establishes that the applicant has met the criteria for late registration described in the regulations at 8 C.F.R. § 244.2(f)(2)(ii). It is noted that the record contains a Notice Regarding Referral of Application for NACARA Suspension of Deportation or Special Rule Cancellation of Removal for Failure to Appear dated April 2, 2008 issued by the San Francisco Asylum Office that was sent to an address that was not the applicant's address of record on that date.

The record contains a copy of the applicant's El Salvadoran passport issued to him on September 21, 1984.

The record contains the following documentation concerning continuous residence and continuous physical presence during the required periods from February 13, 2001 until October 29, 2003:

1. Copies of the applicant's pay slips from [REDACTED] in Richmond, California, for the periods from January 1, 2001, to January 31, 2001; from December 1, 2001, to December 31, 2001; and from January 1, 2002, to January 31, 2002.
2. A copy of the applicant's IRS Form 1040, U.S. Individual Income Tax Return, for 2001.

3. A copy of the applicant's rental agreement dated May 1, 2002, for a property in Concord, California.
4. A copy of the applicant's Explanation of Benefits from Blue Cross of California issued to him on September 20, 2002.
5. A copy of a Certificate of Official Record from the Department of the Treasury, Internal Revenue Service dated October 10, 2002, transmitting a copy of the applicant's December 31, 1997 filing to him.
6. A copy of the applicant's State of California Form 8453-OL, California U.S. Individual Income Tax Declaration for an IRS e-file On-Line Return, for 2002 including an Online e-file Return Authorization filed on April 13, 2003.
7. A copy of the applicant's bill from Concord Disposal Service in Concord, California, for the period from May 1, 2003 to August 1, 2003.
8. A copy of the applicant's Explanation of Benefits from Blue Cross of California issued to him on November 19, 2003.

The evidence detailed in Nos. 1 and 2 above reflects continuous employment throughout the 2001 calendar year. After review of the record, it is determined the applicant has submitted sufficient evidence to establish that he has met the continuous residence and continuous physical presence requirements described in the regulations at 8 C.F.R. §§ 244.2(b) and (c).

The record of proceedings contains sufficient evidence to establish the applicant's eligibility and does not reflect any grounds that would bar him from receiving TPS.

An alien applying for TPS has the burden of proving that he or she meets the requirements listed above and is otherwise eligible under the provisions of section 244 of the Act. The applicant has met this burden.

**ORDER:** The appeal is sustained and the application is approved.