

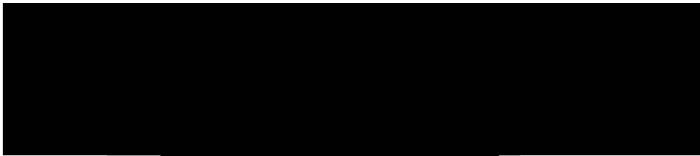
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U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000.
Washington, DC 20529

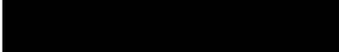


**U.S. Citizenship
and Immigration
Services**

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FILE:



Office: NEBRASKA SERVICE CENTER

Date:

MAR 12 2008

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INRE:

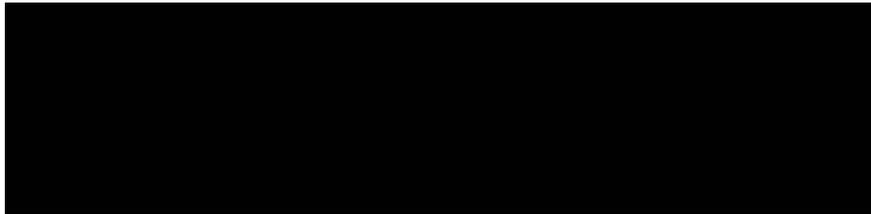
Applicant:



APPLICATION:

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

ON BEHALF OF APPLICANT:



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 application was denied by the Director, Nebraska Service Center (NSC), and is now before the Administrative Appeals Office on appeal. The appeal will be sustained and the application will be approved.

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 failed to establish his eligibility for TPS late registration. The director also denied the application because the applicant failed to establish his date of entry to the United States, and his qualifying continuous residence and continuous physical presence in the United States.

On appeal, the applicant re-asserts his claim of eligibility for TPS and submits evidence in support of his claim.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an applicant is eligible for TPS 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 § 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.

Persons applying for TPS offered to El Salvadorans must demonstrate continuous residence in the United States since February 13, 2001, and continuous physical presence since March 9, 2001. The initial registration period for Salvadorans was from March 9, 2001, through September 9, 2002. The record reveals that the applicant filed his initial application with Citizenship and Immigration Services (CIS), on February 23, 2004.

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 March 23, 2003, the applicant was requested to submit evidence establishing his eligibility for TPS late registration as set forth in 8 C.F.R. § 244.2(f)(2). The applicant was also requested to submit evidence establishing his date of entry to the United States as of February 13, 2001, his continuous residence in the United States since February 13, 2001, and his continuous physical presence in the United States since March 9, 2001. In response, the applicant submitted the following: a copy the biographical page of his El Salvadoran passport; a copy of his Illinois State ID Card issued on May 10, 2001; and, copies of three of his Employment Authorization cards valid from June 11, 1999 to June 11, 2000, June 12, 2000 to June 11, 2001, and August 9, 2001 to August 9, 2002, bearing the "C08" category. The applicant also submitted copies of his school registration cards from the Chicago Public Schools and his immunization records reflecting vaccines given from February 7, 1997 to April 20, 2003.

On appeal, the applicant states that the applicant qualifies for TPS late registration. The applicant also provides a copy of the Federal Register Notice dated July 16, 2003 (Volume 68, Number 136) regarding the extension of the designation of El Salvador under the TPS program.

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

To qualify for late registration, the applicant must provide evidence that during the initial registration period, he or she was either in a valid immigration status, had an application pending for relief from removal, was a parolee, or was the spouse or child of an alien currently eligible to be a TPS registrant, and he or she had filed an application for late registration within 60 days of the expiration or termination of the conditions described in 8 C.F.R. § 244.2(f)(2).

A review of the record of the applicant's father reflects that he was granted TPS on December 9, 2003. The applicant has established his eligibility for late registration described in 8 C.F.R. § 244.2(f)(2)(iv). Therefore, the director's decision on this issue will be withdrawn.

The second issue in this proceeding is whether the applicant has established his date of entry into the United States, and his continuous residence and continuous physical presence in the United States during the requisite time periods.

A review of the record of proceedings and CIS' systems reflects that the applicant was issued employment authorization documents (EAD's) based on the "C8" category every year since 1999. The applicant also provided a copy of his EAD issued by the Chicago District Office on April 29, 2003. Further, the applicant provided copies of registration cards from the Chicago Public Schools reflecting his attendance from March 17, 1999 to February 7, 2002, at which time he transferred to San Antonio, Texas. Additionally, the applicant submitted copies of his immunization records reflecting that he was given vaccinations in the United States from March 12, 1999, to April 20, 2003.

It is determined that the documentation submitted by the applicant, coupled with the information contained in the CIS' data systems, establishes the applicant's date of entry into the United States, and his qualifying continuous residence and continuous physical presence in the United States during the requisite periods described in 8 C.F.R. § 244.2(b) and (c). Therefore, the director's decision on this issue will also be withdrawn, and the 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 appeal is sustained and the application is approved.