



U.S. Citizenship
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Services

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[REDACTED]

FILE: [REDACTED]
[WAC 05 341 70230]

Office: CALIFORNIA SERVICE CENTER

Date: JUN 12 2007

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:

[REDACTED]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the Kansas City, Missouri, Bureau of Immigration and Customs Enforcement (ICE). Any further inquiry must be made to that office.


Robert P. Wiegmann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, California Service Center (CSC), and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Honduras 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 first Form I-821, Application for Temporary Protected Status, with the Nebraska Service Center (NSC) on March 30, 2001, during the initial registration period (LIN 01 153 52111 relates). On August 6, 2001, that application was denied because the applicant failed to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite time periods. After a review of the record, the AAO concurs with the NSC director's denial decision.

The applicant filed this Form I-821 on September 6, 2005. The CSC director denied the application as an application for re-registration on May 3, 2006, 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 filed his current appeal from that decision on June 8, 2006.

On appeal, counsel submits a brief and 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 designated by the Attorney General 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.

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 the current application with Citizenship and Immigration Services (CIS) on September 6, 2005, almost three years after the initial registration period had ended.

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.

The burden of proof is upon the applicant to establish that he 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 burden of proof, the applicant must provide supporting documentary evidence of eligibility apart from his own statements. 8 C.F.R. § 244.9(b).

On appeal, counsel asserts that the application was erroneously denied because it was filed as a late application for TPS, not as an application for re-registration. Counsel further claims that the applicant is eligible for late registration because he is the child of an alien currently eligible to be a TPS registrant.

The record reflects that, during the initial registration period, the applicant was the child of [REDACTED], a TPS registrant. Therefore, the applicant is eligible to file a late application for TPS under the provisions of 8 C.F.R. § 244.2(f)(2)(iv). However, the late registration provisions do not relax the other requirements for TPS eligibility.

The applicant claims to have entered the United States on July 8, 2000, after the qualifying dates for establishing continuous residence and continuous physical presence. Therefore, the applicant is unable to establish that he satisfies the continuous residence and continuous physical presence requirements described in 8 C.F.R. §§ 244.2(b) and (c). Therefore, the application must be denied for these reasons.

It is noted that an Immigration Judge in Kansas City, Missouri, ordered the applicant removed from the United States to El Salvador on September 28, 2006. That order remains outstanding.

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.