

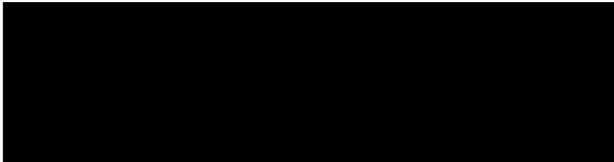
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U.S. Department of Homeland Security
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U.S. Citizenship
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FILE: [REDACTED] OFFICE: Vermont Service Center DATE: **SEP 10 2007**
[EAC 07 005 82619]

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.


Robert P. Wiemann, Chief
Administrative Appeals Office

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

The applicant claims to be 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 on the grounds that the applicant failed to establish that he was eligible for late TPS registration, failed to provide a photo or fingerprint identity document, and failed to establish that he had been a continuous resident of the United States since February 13, 2001, and continuously physically present in the United States since March 9, 2001, as required for TPS applicants from El Salvador.

On appeal the applicant submits some additional school and medical records from the 1990s as evidence that he has been in the United States since 1990.

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.

El Salvadoran nationals applying for TPS 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 applicant filed his Form I-821, Application for Temporary Protected Status, with the VSC on September 4, 2006 – four years after the close of the initial registration period.

To qualify for late registration, the applicant must provide evidence that during the initial registration period he satisfied at least one of the criteria enumerated in 8 C.F.R. § 244.2(f)(2) above.

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. *See* 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. *See* 8 C.F.R. § 244.9(b).

On December 26, 2006, the director issued a Notice of Intent to Deny (NOID) in which the applicant was requested to submit, within 33 days, evidence establishing his eligibility for late registration; a copy of his passport, national identity document, or other type of photo identity document; and evidence of his residence in the United States since February 13, 2001, and his physical presence in the United States from March 9, 2001, to the date his TPS application was filed in 2006. The director noted that the documentation already in the file was from earlier years, between 1991 and 2000.

When the applicant did not respond within the requisite time period, the director denied the application on February 16, 2007, for the reasons set forth in the NOID.

On appeal the applicant submits some additional medical and school records from the years 1991-1999 and asserts that they support his claim to have been in the United States since 1990. The applicant did not address the issues of his eligibility for late TPS registration or a photo identity document.

Thus, there is still no evidence that the applicant – who filed for TPS four years after the close of the initial registration period for El Salvadoran nationals on September 9, 2002 – is eligible for late registration under any of the criteria enumerated at 8 C.F.R. § 244.2(f)(2). The record does not indicate that either of the applicant's parents ever applied for or was granted TPS, which could have made the applicant eligible for late registration under the qualifying criterion at 8 C.F.R. § 244.2(f)(2)(iv). Moreover, the applicant (born on November 14,

1984) turned 21 on November 14, 2005, at which time he ceased to be a “child” for immigration purposes. Under 8 C.F.R. § 244.2(g) the applicant would have had 60 days – until January 13, 2006 – to file an application for late registration. The applicant did not file his TPS application until September 4, 2006. Therefore, even if the applicant had been eligible for late registration under 8 C.F.R. § 244.2(f)(2)(iv), the application could not be approved because it was not filed within the 60-day window after he turned 21. For the reasons discussed above, the director’s denial of the application for failure of the applicant to establish his eligibility for late TPS registration will be affirmed.

The documentation submitted on appeal – all from the 1990s – substantiates the applicant’s claim to have come to the United States in 1990. But there is no evidence in the record from 2001 onward documenting that the applicant was continuously physically present in the United States from March 9, 2001, to the date of filing for TPS (October 5, 2006), and that he has been a continuous resident of the United States since February 13, 2001, as required for El Salvadoran nationals under 8 C.F.R. § 244.2(b) and (c). Nor has the applicant submitted a photo identity document like a passport or national identity document from El Salvador, as required under 8 C.F.R. § 244.9(a)(1). The director’s denial will be affirmed on these grounds as well.

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.