

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy



U.S. Citizenship
and Immigration
Services

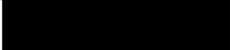
PUBLIC COPY

M



SEP 18 2007

FILE:



OFFICE: Vermont Service Center

DATE:

[EAC 07 010 72756]

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 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 his eligibility for late TPS registration, his continuous residence in the United States since February 13, 2001, and his continuous physical presence in the United States from March 9, 2001, to the date of filing for TPS, and failed to submit a photo or fingerprint identity document.

On appeal the applicant requests that his case be reviewed, but submits no 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.

El Salvadoran nationals applying for TPS 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 initial Form I-821, Application for Temporary Protected Status, on September 7, 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 met at least one of the conditions described 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 Citizenship and Immigration Services (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 29, 2006, the director issued a Notice of Intent to Deny (NOID) in which she requested the applicant, who claims to have entered the United States without inspection on January 2, 1989, to submit evidence that he was eligible for late registration and met the continuous residence and continuous physical presence requirements for TPS applicants from El Salvador, and also to submit a copy of his national identity document. The applicant was given 30 days to respond, but failed to do so.

On February 26, 2007, the director denied the application on the grounds that the applicant failed to establish that he was eligible for late TPS registration under one of the qualifying conditions enumerated at 8 C.F.R. § 244.2(f)(2) and filed a timely late registration within 60 days of the end of his qualifying condition; failed to establish that he had been continuously physically present in the United States from March 9, 2001, to the date he filed for TPS (in September 2006) and had continuously resided in the United States since February, 13, 2001, in accordance with section 244(c)(1)(A)(i) and (ii) of the Act; and failed to submit a national identity document bearing his photograph or fingerprints, in accordance with 8 C.F.R. § 244.9(a)(1).

The applicant filed a timely appeal, and makes reference to having filed earlier applications for TPS in 1991 and 2001. No documentary evidence thereof has been submitted, however, and CIS records do not indicate that any TPS application was filed before the applicant's current one in September 2006. No further documentation has been submitted on appeal.

Thus, there is still no evidence in the record that the applicant, who filed his initial TPS application four years after the end of the initial registration period for El Salvadoran nationals, is eligible for late registration under any of the criteria enumerated at 8 C.F.R. § 244.2(f)(2). The only evidence of the applicant's residence and physical presence in the United States are photocopies of three earnings statements, dating from April to August 2001, that were submitted with the TPS application. That documentation is insufficient to establish that the applicant was continuously physically present in the United States from March 9, 2001, to the date he filed his TPS application in September 2006; and that he has been a continuous resident of the United States since February 13, 2001, as required for TPS applicants from El Salvador under 244(c)(1)(A)(i) and (ii) of the Act and 8 C.F.R. § 244.2(b) and (c). In addition, the applicant has not furnished a national identity document from El Salvador with his photograph or fingerprints, as required in 8 C.F.R. § 244.9(a)(1). Accordingly, the director's decision denying the application will be affirmed on all grounds.

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 that burden.

ORDER: The appeal is dismissed.