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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

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[REDACTED]

FILE:

[REDACTED]
[EAC 03 001 54096]
[REDACTED]

OFFICE: VERMONT SERVICE CENTER

DATE: FEB 01 2008

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 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, and is now before the Administrative Appeals Office (AAO) on appeal. 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 because the applicant failed to establish to he was eligible for late registration. The director also denied the application because the applicant failed to submit: 1) his birth certificate with an English translation; 2) a statement regarding the use of three aliases; and 3) a Form I-601, Application for Waiver of Grounds of Excludability.

On appeal, counsel asserts that the applicant filed his initial TPS application on September 9, 2002. Counsel provides an explanation regarding some of the different names used by the applicant.

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 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).

The first issue in this proceeding is the director's finding that the applicant is ineligible for late registration.

In denying the application, the director noted that the applicant's TPS application "was received after the initial registration period...."

The AAO, however, does not agree with the director's finding as the record reveals that the applicant filed his TPS application with Citizenship and Immigration Services on September 9, 2002, which is within the initial registration period. As such, the director's finding is withdrawn and the application is considered an initial application.

The remaining issues in this proceeding are the director's findings that the applicant failed to submit a Form I-601 and a copy of his birth certificate with English translation and failed to provide an explanation regarding the use of three aliases.

The record reveals that the applicant has a prior alien registration file () which reflects that on February 16, 1996, the applicant attempted to enter the United States by using a passport issued to another individual named . At the time of his apprehension, the applicant listed his name as . On the same date, the applicant voluntarily withdrew his application for admission into the United States. The FBI record, via a fingerprint analysis, reflects that the applicant also used the alias .

On September 3, 2004, a notice was sent to the representative's address, requesting that the applicant submit a copy of his birth certificate with English translation and an explanation regarding the circumstances under which he used each alias.¹ The applicant was also informed that he was found to be inadmissible under section 212(a)(6)(c) of the Act due to misrepresentation of a material fact. The applicant was requested to submit a Form I-601. However, no response was received from either the representative or the applicant. Accordingly, on January 24, 2007, the director denied the application.

¹ The director, in his Notice of Decision, inadvertently noted that this notice was dated March 1, 2006.

On appeal, counsel addresses the applicant's names listed on his TPS application ([REDACTED] and [REDACTED] but fails to address the use of the three other aliases mentioned above ([REDACTED] and [REDACTED] [REDACTED]. Counsel submits a copy of the applicant's January 24, 1968, birth certificate with an English translation, which listed his name as [REDACTED]. It is noted that the birth certificate lists Notations of Importance, which indicated that on June 15, 1978, the applicant's parents [REDACTED] and [REDACTED] were married, and on November 20, 1985, the father recognized the applicant as his son.

The applicant was given opportunities on September 3, 2004, and January 24, 2007, to submit a Form I-601 and provide an explanation regarding the use of his aliases. To date, however, neither the Form I-601 nor an explanation has been provided. Consequently, the director's decision to deny the application for TPS for these reasons will be affirmed.

It is noted that the record reflects that on June 11, 1992, a Form I-221, Order to Show Cause and Notice of Hearing was served upon the applicant.

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.