



U.S. Citizenship  
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FILE: [REDACTED] Office: VERMONT SERVICE CENTER  
[EAC 07 229 51965, appeal]  
[EAC 07 14970144]

Date: FEB 01 2008

INRE: 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:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the Vermont Service Center. 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 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 applicant filed an initial Form I-821, Application for Temporary Protected Status, under receipt number EAC 01 178 52255 during the initial registration period. The director denied that application on June 13, 2002, after determining that the applicant had abandoned his application by failing to respond to a request for evidence.

Since the application was denied due to abandonment, there was no appeal available; however, the applicant could have filed a motion to reopen within 30 days from the date of the denial. The applicant did not file a motion to reopen during the requisite timeframe. After review of the record, the Chief, AAO, affirms the director's denial decision.

The applicant filed the current Form I-821 on February 26, 2007, and indicated that he was filing his first application to register for TPS.

The director denied the application because the applicant failed to establish he was eligible for late initial registration. The director also found the applicant failed to submit the final court disposition for his arrest on July 16, 2001 for the possession of marijuana.

On appeal, counsel states that the applicant did not respond to the director's December 28, 2001 Request For Evidence (RFE) because he did not receive it. Counsel further states that the RFE requested a criminal disposition for a crime for which he was found not guilty. Counsel argues that the charge was nolle prossed (not prosecuted/dropped/dismissed) on August 30, 2001, and that therefore, the applicant maintains eligibility for TPS.

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 temporary protected status 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 section 244.3;
- (e) Is not ineligible under 8 C.F.R. § 244.4; and

- (f) (1) Registers for TPS 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 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 application with Citizenship and Immigration Services on June 28, 2007.

To qualify for late registration, an applicant must provide evidence that during the initial registration period, he or she fell within at least one of the provisions described in 8 C.F.R. § 244.2(f)(2) above.

On April 20, 2007, the applicant was requested to submit evidence establishing his eligibility for late registration as set forth in the regulations at 8 C.F.R. § 244.2(f)(2). The applicant was also requested to submit the final court disposition for his arrest on July 16, 2001 for the possession of marijuana along with evidence establishing his continuous residence and continuous physical presence in the United States. The applicant, in response, provided an unsigned notice dated August 16, 2001, from the District Court of Maryland for Baltimore City indicating that the trial date for his Case Number ( ) had changed from August 30, 2001 to September 27, 2001. He also submitted a second unsigned Notice of Cancellation dated August 30, 2001, from the same District Court notifying that the trial/hearing scheduled for September 27, 2001 for his Case Number ( ) had been cancelled "because the case has been concluded." However, he did not submit any evidence to establish that he was eligible for late initial registration.

On appeal, the applicant submits a printout certified by an Administrative Clerk of the District Court of Maryland, District 1 indicating that a decision not to prosecute his case was decided on August 30, 2001. However, this evidence does not mitigate the applicant's failure to file his complete Application for Temporary Protected Status within the initial registration period. The applicant has not submitted any evidence to establish that he has met any of the criteria for late registration described in the regulations at 8 C.F.R. § 244.2(f)(2). Consequently, the director's decision to deny the application for TPS is affirmed.

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.