



**U.S. Citizenship
and Immigration
Services**

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FILE: [REDACTED] Office: VERMONT SERVICE CENTER Date: **MAR 25 2008**
[EAC 07 113 51701 *appeal*)
[EAC 06 362 70934]

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**.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

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 on appeal. The appeal will be dismissed.

The applicant is a native and citizen of El Salvador who is applying for Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254.

The applicant filed a Form 1-821, Application for Temporary Protected Status, under receipt number EAC 06 362 70934 during the initial **registration** period. The director denied that application on September 17, 2004, because the applicant had not met the continuous residence and continuous physical presence requirements for TPS. On October 10, 2003, the applicant filed a Form 1-821 under receipt number EAC 04 019 52140. The director denied that application on September 17, 2004 because the applicant had not been previously been granted TPS.

The applicant filed the current Form 1-821 on February 16, 2007.

The director denied the application because the applicant failed to establish he was **eligible** for late initial **registration**. The director also found that the applicant had not established that he had continuously resided in the United States since February 13, 2001 or that he had been continuously physically present in this country since March 9, 2001.

On appeal, counsel states the applicant is eligible for late initial registration because he has had an application for asylum pending during the period that spans 1998 to 2007 and that he has obtained work authorization based upon that application. Counsel submits additional evidence to prove the applicant's continuous physical presence and continuous residence during the required periods.

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 current application with Citizenship and Immigration Services on September 27, 2006.

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 appeal, counsel states the applicant is eligible for late initial registration because he has had an application for asylum pending during the period that spans 1998 to 2007 and that he has obtained work **authorization** based upon that application. However, the record shows that the Form I-589, Request for **Asylum** in the United States, that the applicant filed on September 27, 1993 was denied by the Acting Assistant Commissioner of the Office of Refugees, Asylum, and Parole in Arlington, Virginia, on September 1, 1994. 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.

The applicant submits evidence including automobile insurance documentation, driver's license information, Internal Revenue Service documentation, pay stubs, home ownership documentation and documentation of his marital status establishing that he had continuously resided in the United States from **February** 13, 2001 and been continuously physically present since March 9, 2001. It is determined that the applicant has provided evidence establishing his continuous residence and continuous physical presence during the required time periods. 8 C.F.R. § 244.2 (b) and (c). Consequently, the applicant has overcome the director's determination concerning these two **grounds** for denial. Nevertheless, the applicant remains ineligible for TPS due to his late filing, as detailed above.

An alien applying for temporary protected status has the burden of proving that he or she meets the requirements cited 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.