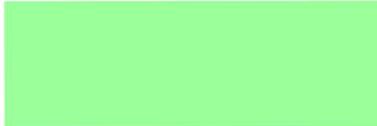




U.S. Citizenship
and Immigration
Services

(b)(6)



DATE: **MAY 15 2013**

Office: VERMONT SERVICE CENTER

FILE: 

IN RE: Applicant: 

APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254a

ON BEHALF OF APPLICANT:



INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the Vermont Service Center. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of \$630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,



Ron Rosenberg
Acting Chief, Administrative Appeals Office

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

The applicant is 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.

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 Secretary 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 initial registration period for El Salvadorans was from March 9, 2001, through September 9, 2002. To qualify for late registration, the applicant must provide evidence that during the initial registration period he fell within at least one of the provisions described in 8 C.F.R. § 244.2(f)(2) above.

The record reveals that the applicant filed his application on September 9, 2010. Along with his TPS application, the applicant submitted a copy his birth certificate with English translation and a copy of his father's employment authorization card (C12) valid from March 9, 2009 through September 9, 2010.

The director determined that the applicant had not submitted sufficient evidence to establish continuous residence and continuous physical presence in the United States during the requisite periods. The director also determined that the applicant had failed to establish late registration eligibility. On appeal, counsel asserts that the applicant is eligible for late registration as he is a child of an alien currently eligible to be a TPS registrant. Counsel states that director's finding that the applicant did not satisfy his burden of proving continuous residence and continuous physical presence was arbitrary and capricious.

Without addressing the merits of the findings of the director regarding continuous residence and continuous physical presence, the record reflects that the applicant is ineligible for TPS based on a different reason.

The record reflects that the applicant's father is not currently a TPS registrant. USCIS records reflect that the last TPS application filed by the applicant's father was on August 22, 2010, and it was approved on September 20, 2010. On November 7, 2011, the applicant's father filed a Form I-485, Application to Register Permanent Residence or Adjust Status, and he was granted lawful permanent residence on August 30, 2012. As the father of the applicant is no longer a TPS registrant, the benefits of section 244 of the Act pertaining to late initial registration as the child of a TPS registrant are not available to the applicant. Consequently, the appeal will be dismissed as moot.

ORDER: The appeal is dismissed.