

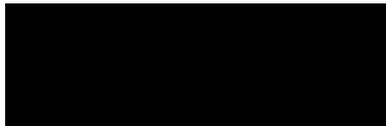
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U.S. Department of Homeland Security  
20 Mass. Ave., N.W., Rm. A3042  
Washington, DC 20529



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

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**MI**

FILE: [Redacted]  
[SRC 04 227 54400]

Office: TEXAS SERVICE CENTER

Date: **AUG 29 2005**

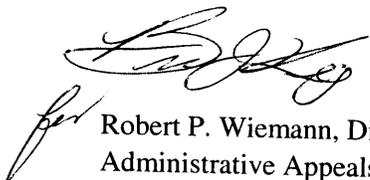
IN RE: Applicant: [Redacted]

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

ON BEHALF OF APPLICANT: 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, Director  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, Texas Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The applicant is stated to be 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 director denied the application because the applicant failed to establish he was eligible for late registration.

On appeal, the applicant states:

I am sending coping of the I-821 that my mother apply on Sept. 2001. She also listing myself and my br. and sister, on her applicant for T.P.S. Also on May 14, 1996 my stepfather apply the I-130 for all of us. But we have not be approved.

The applicant forwards an unsigned copy of a Form I-130, Petition for Alien Relative filed by [REDACTED] behalf of [REDACTED] which shows the applicant as M [REDACTED] step-son. He also forwards a Form I-797C, Receipt Notice, reflecting the petition was filed on May 15, 1996. Also, the applicant forwards a copy of a Postal Money Order issued on October 15, 2001 to "INS" and a Form I-821, Application for Temporary Protected Status, signed on October 12, 2001 by [REDACTED]. Additionally, he submits a copy of a Form I-797C, Receipt Notice, showing that Blanco C. Portillo filed a Form I-821 on September 23, 2002.

Section 244(c) of the Act, and the related regulations at 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 record reflects that the applicant filed his initial application with Citizenship and Immigration Services (CIS), on August 23, 2004.

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.

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).

On initial submission, the applicant forwarded a copy of his El Salvadorian national identification card issued to him on July 30, 2001 in El Salvador. On September 2, 2004, 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 evidence establishing that he arrived in the United States prior to February 13, 2001 and his physical presence in the United States from March 9, 2001, to the date of filing. In response, the applicant submitted his student identification card issued by the National Institute of the Ministry of Education in El Salvador valid from January 1, 2000 through November 30, 2000. He also submitted a copy of a lease agreement dated February 20, 2003 between [REDACTED] as landlord and himself for a property in Okeechobee, Florida.

The director determined that the applicant had failed to establish he was eligible for late registration and denied the application on October 4, 2004. On appeal, the applicant provided evidence that his mother is the beneficiary of an I-130 visa petition filed in her behalf and that he is included on that petition. He also submits evidence that his mother has applied for TPS.

The applicant indicates he is eligible for late registration because he is the potential beneficiary of a Form I-130 filed in his mother's behalf under section 203(a)(2)(A) of the Act. However, individuals who are listed on pending visa petitions or even those who are awaiting preference allocation for an immigrant visa under section 203 of the Act are not eligible for late registration under the regulations at 8 C.F.R. § 244.2(f)(2). Additionally, the applicant asserts that he is eligible for late registration because his mother is eligible to be a TPS registrant. However, in this case, the applicant has not satisfied the requirements of the regulations at 8 C.F.R. § 244.2(f)(2)(iv) by providing evidence that his mother was eligible to be a TPS registrant based upon her first application to register for TPS that she filed on September 23, 2002, after the initial registration period.

The record reflects that the applicant has not submitted sufficient evidence to establish that he has met 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 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.

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. An extension of the TPS designation has been granted by the Secretary of the Department of Homeland Security, with validity until September 9, 2006, upon the applicant's re-registration during the requisite time period.

The applicant indicates on his Form I-821, Application for Temporary Protected Status, that he entered the United States on February 9, 2001. However, this entry date is not credible because the national identity document that the applicant forwarded for the record clearly shows that he was in El Salvador on July 30, 2001 it was issued to him abroad during a period of time when he claims to have been in the United States. It is determined that the applicant has not submitted sufficient evidence to establish his continuous residence or continuous physical presence in the United States during the period from February 13, 2001, to at least July 30, 2001. Therefore, he cannot establish continuous residence in the United States since February 13, 2001, or continuous physical presence in the United States since March 9, 2001. The provisions of 8 C.F.R. § 244.2(b) and (c) have not been met, and the application is denied for these additional reasons.

An alien applying for temporary protected status 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.