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

U.S. Citizenship and Immigration Services

PUBLIC COPY

[redacted]

FILE: [redacted] Office: CALIFORNIA SERVICE CENTER Date:
[WAC 03 239 51958]

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, California 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 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 initial registration.

On appeal, the applicant submits a statement and additional evidence.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an applicant is eligible for TPS 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 § 244.3;

(e) Is not ineligible under § 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 reveals that the applicant filed his initial application with Citizenship and Immigration Services (CIS) on July 28, 2003.

To qualify for late registration, the applicant must provide evidence that during the initial registration period, he or she was either in a valid immigration status, had an application pending for relief from removal, was a parolee, or was the spouse or child of an alien currently eligible to be a TPS registrant, and had filed an application for late registration within 60 days of the expiration or termination of the conditions described in 8 C.F.R. § 244.2(f)(2).

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 director determined that the applicant had failed to establish he was eligible for late registration and denied the application on March 29, 2004.

On appeal, the applicant states that his mother has been granted special rule cancellation of removal pursuant to section 203 of the Nicaraguan Adjustment and Central American Relief Act (NACARA), and has been granted adjustment of status to lawful permanent resident. The applicant further states that he was included on his mother's Form I-589, Request for Asylum in the United States, but he was not granted special rule cancellation of removal and lawful permanent residence when his mother's application for cancellation of removal under NACARA was approved. The applicant submits a photocopy of a letter dated April 1, 2003, from the Director of the Asylum Office in Anaheim, California, informing the applicant's mother [redacted] that her NACARA application was approved and that she was granted adjustment of status to lawful permanent resident under CIS number A94 146 172.

The record indicates that the applicant's mother filed a Form I-589 on March 6, 1995. The applicant was included in his mother's application. On March 19, 2001, the applicant filed a Form I-881, Application for Suspension of Deportation or Special Rule Cancellation of Removal (pursuant to section 203 of Public Law 105-100, NACARA). The applicant was interviewed at the Anaheim Asylum Office on April 1, 2003. At that time, it was determined that the applicant was not eligible for suspension of deportation/special rule cancellation of

removal under NACARA because he did not meet the seven-year residence requirement. The applicant's Form I-881 was dismissed, and his application for asylum as the child of an asylum applicant was administratively closed on April 1, 2003, the date of his interview.

In order to qualify for late initial registration based on his pending asylum application, the applicant was required to file his Form I-821, Application for Temporary Protected Status, within 60 days of the termination of his applications for asylum and for suspension of deportation under NACARA. Since the applicant's applications were both terminated on April 1, 2003, he was required to file his Form I-821 on or before June 1, 2003. The applicant did not file his Form I-821 until July 28, 2003. Therefore, he is not eligible for late initial registration based on pending applications for asylum and cancellation of removal. The applicant has not submitted any evidence to establish that he has met any of the other criteria for late registration described in 8 C.F.R. § 244.2(f)(2). Consequently, the director's decision to deny the application for temporary protected status will be affirmed.

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.