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

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FILE: [REDACTED]  
[EAC 03 209 50223]

Office: VERMONT SERVICE CENTER

Date: **NOV 03 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.

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

Robert P. Wiemann, Director  
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 director denied the application because the applicant failed to establish that he was eligible for late registration. The director also found that the applicant had failed to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite time periods.

On appeal, the applicant submits a brief statement and additional documentation.

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 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 § 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.

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 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 Form I-821, Application for Temporary Protected Status, with Citizenship and Immigration Services (CIS) on June 9, 2003, nine months after the initial registration period had ended.

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 burden of proof is upon the applicant to establish that he 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 burden of proof the applicant must provide supporting documentary evidence of eligibility apart from his own statements. 8 C.F.R. § 244.9(b).

In support of his initial TPS application, the applicant submitted the following documentation:

1. A photocopy of the identification page from his El Salvadoran passport, issued in Washington, D.C., on September 1, 1999;
2. A photocopy of his Employment Authorization document, issued on December 18, 2001, valid through December 17, 2002;
3. Photocopies of his 2001 Internal Revenue Service (IRS) Forms W-2, Wage and Tax Statements;

4. A photocopy of his 2001 IRS Form 1040, U.S. Individual Income Tax Return;
5. A photocopy of an Allstate payment receipt, dated July 6, 2001; and,
6. A photocopy of a Virginia Department of Motor Vehicles payment receipt, dated July 5, 2001.

On October 16, 2003, the director requested the applicant to submit evidence establishing his eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2). The applicant was also requested to submit evidence to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite time periods. The record reflects that the applicant failed to respond to the director's request.

The director determined that the applicant had failed to establish that he was eligible for late registration and denied the application on March 16, 2004.

On appeal, the applicant submits the following additional documentation:

7. An affidavit, dated April 1, 2004, from [REDACTED] Sterling, Virginia, stating that the applicant had been employed by him in his landscaping business from November 3, 2000, to October 20, 2001, and from May 26, 2002, to May 2003;
8. A letter, dated April 12, 2004, from [REDACTED], stating that the applicant had been employed as a laborer from October 22, 2001, to May 20, 2002;
9. Documentation indicating that the applicant's Form I-589, Application for Asylum in the United States, filed on September 8, 1995, was withdrawn by the applicant and terminated on October 1, 2002; and,
10. A photocopy of his driving record from the Virginia Department of Motor Vehicles.

The first issue in this proceeding is whether the applicant is eligible for late registration.

While the applicant's pending application for asylum rendered him eligible for late registration, CIS regulations also require a late registration to be filed within a 60-day period immediately following the expiration or termination of conditions that made the applicant eligible for late registration. 8 C.F.R. § 244.2(g). In this case, since the applicant's asylum application was withdrawn and terminated October 1, 2002, his 60-day period for late registration actually expired on November 30, 2002. The applicant did not file his TPS application with the director until June 9, 2003.

The applicant did not file his application during the initial registration period or during the allotted 60-day late registration period described in 8 C.F.R. § 244.2(g). Consequently, the director's decision to deny the application for Temporary Protected Status on this ground will be affirmed.

The second issue in this proceeding is whether the applicant has established his continuous residence in the United States since February 13, 2001, and his continuous physical presence since March 9, 2001.

Based on a review of the record, it is concluded that the applicant has submitted sufficient documentation to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite time periods. He has, therefore, met the criteria described in 8 C.F.R. § 244.2(b) and (c). Consequently,

the director's decision to deny the application for these reasons will be withdrawn. Nevertheless, the applicant remains ineligible for TPS due to his late registration as discussed above.

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.