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**U.S. Citizenship
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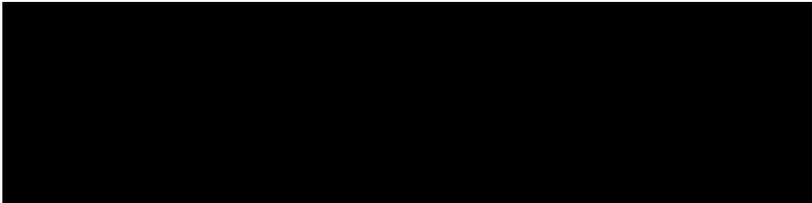
Office: VERMONT SERVICE CENTER

Date: **OCT 03 2005**

[EAC 04 065 54257]

IN RE:

Applicant:



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, Vermont Service Center and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The applicant stated to be 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 director denied the application because the applicant failed to establish that he was eligible for late registration. The director also determined the applicant failed to establish he had continuously resided in the United States since February 13, 2001 and had been continuously physically present in the United States since March 9, 2001.

On appeal, the applicant outlines the actions he has taken to obtain approval of his TPS application and to retain his employment authorization. The applicant submits additional documentation for consideration.

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 Salvadorians 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 shows that the applicant filed an application with the Immigration and Naturalization Service, now Citizenship and Immigration Services (CIS), on May 23, 2001. On February 6, 2002, the director sent a Form I-797 notice to the applicant indicating that his Federal Bureau fingerprint result report revealed that he had been arrested on June 4, 2000 by the Millersville Police Department and charged with assault and destruction of property. The director requested that the applicant submit the final dispositions of the charges against him. The applicant was requested to provide evidence showing whether the charges for which he was convicted were classified as a felony or a misdemeanor. He did not respond within the allowable time period. On July 17, 2002, the director denied that application for abandonment. The director notified the applicant that any motion to reopen must have been filed by August 19, 2002. The record shows that the applicant filed an untimely motion to reopen on March 10, 2003 that was dismissed by the director on August 20, 2003. The record shows that the applicant filed this TPS application with CIS on December 19, 2003.

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

On March 24, 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 her continuous residence and continuous physical presence in the United States. Additionally, the applicant was requested to submit evidence to show that he is a citizen or national of El Salvador. The applicant did not respond to the director's request.

On appeal, the applicant submitted evidence in an attempt to establish his continuous residence and continuous physical presence in the United States. However, this evidence does not mitigate the applicant's failure to file an approvable Application for TPS within the initial registration period. The applicant's failure to provide required

documentation in a timely manner left the director no choice but to deny that application. Evidence of a denied application, even one timely submitted, does not constitute a registration during an initial period or excuse the lateness of an applicant's subsequent submission. The applicant has not submitted any evidence to establish that she as 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.

Additionally, the applicant has provided insufficient evidence to establish that he is a national or citizen of El Salvador. The applicant has provided a copy of his birth certificate along with an English translation. However, a birth certificate alone does not establish nationality. The record does not contain any photo identification such as a passport or national identity document. 8 C.F.R. § 244.2(a)(1). Therefore, the application is denied for this additional reason.

The application will be denied for the above stated reasons, with each considered as an independent and alternative basis for denial. An alien applying for TPS 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.