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U.S. Department of Homeland Security  
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Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

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FILE:

[REDACTED]  
[EAC 03 133 51753]

Office: VERMONT SERVICE CENTER

Date: SEP 08 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:

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 cursive script, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, Vermont Service Center. The director subsequently dismissed a motion to reopen the case. The case 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 applying for Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254.

On November 6, 2003, the director determined that the applicant had failed to establish he is eligible for late registration. On December 12, 2003, the applicant filed a motion to reopen the director's decision. On March 31, 2004, the director dismissed the applicant's motion and reaffirmed his decision to deny the application. The applicant filed the instant appeal of that decision on April 8, 2004.

On appeal, the applicant submits a letter.

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 designated by the Attorney General 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 section 244.3;
- (e) Is not ineligible under 8 C.F.R. § 244.4; and
- (f)
  - (1) Registers for TPS 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 the Immigration and Naturalization Service (INS), now Citizenship and Immigration Services (CIS), on March 25, 2003, more than six 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 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).

In support of the applicant's initial TPS application, counsel submitted a letter, dated March 5, 2003, stating that the applicant qualified for late registration because, during the initial registration period, he had been granted employment authorization on the basis of his father's asylum claim.

On August 25, 2003, the director requested the applicant, through counsel, to submit evidence establishing his eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2). The director specifically noted that CIS records reflected that his father's asylum application was administratively closed on April 16, 2002, and that to be considered eligible for late registration, the applicant would have had to apply for TPS within sixty days of the expiration or termination of the conditions listed in 8 C.F.R. § 244.2(f)(2). The director further noted that the applicant was twenty-five years old when his father's asylum application was closed; therefore, he did not qualify for late registration as the child of a TPS registrant.

In response to the director's request, counsel submitted a letter, dated August 29, 2003, stating that the applicant applied for TPS within 60 days of the denial of his Form I-765, Application for Employment Authorization, on January 24, 2003.

The director determined that the applicant had failed to establish his eligibility for late registration and denied the application on November 6, 2003. The director clearly advised the applicant that any appeal of that decision must be filed within thirty-three days.

On December 12, 2003, the applicant filed an appeal of the director's decision. Because the appeal was filed later than the prescribed period of thirty-three days, the director rejected the appeal. However, the director accepted the appeal as a motion to reopen.

The director again determined that the applicant had failed to establish his eligibility for late registration. The director dismissed the motion and reaffirmed his decision to deny the application on March 31, 2004. The applicant has now filed an appeal of that decision.

On appeal, the applicant states that he has been authorized employment authorization since 1996 based on his father's asylum application and did not know that he had to apply for TPS.

As previously stated, CIS regulations allow the child of an alien currently eligible to be a TPS registrant to file an application after the initial registration period; however, section 101(b)(1) of the Act defines the term "child" as an "unmarried person under twenty-one years of age." The evidence of record reveals that the applicant, who was born on April 3, 1978, turned twenty-one years of age on April 3, 1999. The initial registration period for Salvadorans was from March 9, 2001, through September 9, 2002. Furthermore, a review of the record reflects that the applicant's father's asylum application was administratively closed on April 16, 2002. If the applicant had qualified as the "child" of an asylum applicant, he could have filed an application for late registration on or before June 15, 2002. However, the applicant did not qualify as the "child" of an asylum applicant because he was over twenty-one years of age at the time his father's asylum application was closed. The fact that the applicant has been authorized employment authorization since 1996 is, as the director stated, irrelevant. The applicant has failed to establish that he has met any of the 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.