

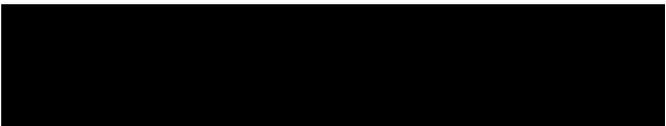
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FILE: [REDACTED] OFFICE: CALIFORNIA SERVICE CENTER DATE: **AUG 01 2006**
[WAC 05 119 77460]

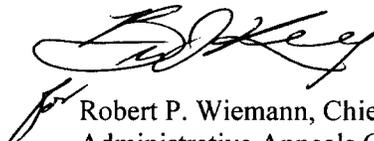
IN RE: Applicant: [REDACTED]

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, Chief
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 record reveals that the applicant filed a TPS application during the initial registration period on December 5, 2001, under Citizenship and Immigration Services (CIS) receipt number WAC 02 062 55653. The director denied that application on July 28, 2004, after determining that the applicant had abandoned his application based on his failure to appear for fingerprinting on January 29, 2004. The applicant did not file a motion to reopen within 30 days from the date of the denial.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on January 27, 2005, and indicated that he was re-registering for TPS.

The director denied the re-registration application because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS.

On appeal, the applicant asserts that he never received the director's denial decision of the initial application although a change of address was submitted on May 15, 2004. A review of the record of proceeding, however, shows that the request to appear for fingerprinting dated January 5, 2004, and the director's denial decision dated July 28, 2004, were mailed to the applicant's most recent address provided by the applicant at that time

There is no evidence in the record that the applicant had advised CIS of a change of his address as claimed, nor is there evidence that the notices were returned to CIS as undeliverable. Additionally, it is noted that also on January 5, 2004, a Notice of Intent to Deny (NOID) was issued requesting that the applicant submit additional evidence to establish continuous residence in the United States since February 13, 2001. The NOID was mailed to the applicant's address at that time

The applicant responded to the NOID on February 3, 2004, by furnishing evidence in an attempt to establish residence in the United States during the requisite period. It is noted that the applicant's return address on the envelope, postmarked by the Postal Service on January 30, 2004, also shows

While the applicant responded to the NOID, the applicant failed to respond to the request to appear for fingerprinting.

If the applicant is filing an application as a re-registration, a previous grant of TPS must have been afforded the applicant, as only those individuals who are granted TPS must register annually. In addition, the applicant must continue to maintain the conditions of eligibility. 8 C.F.R. § 244.17.

In this case, the applicant has not previously been granted TPS. Therefore, he is not eligible to re-register for TPS. Consequently, the director's decision to deny the application will be affirmed.

It is noted that the director's decision does not explore the possibility that the applicant was attempting to file a late initial application for TPS instead of an annual re-registration.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an alien 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 § 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 condition described in paragraph (f)(2) of this section.

The initial registration period for El Salvadorans was from March 9, 2001, through September 9, 2002. The record reveals that the applicant filed the current application with CIS on January 27, 2005.

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 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 applicant has failed to provide any evidence to establish that this application should be accepted as a late initial registration under 8 C.F.R. § 244.2(f)(2). Therefore, the application also must be denied for this reason.

The documents contained in the record of proceeding, however, are insufficient to establish continuous residence and continuous physical presence in the United States during the requisite period. As previously noted, the applicant responded to the director's Notice of Intent to Deny dated January 5, 2004, by submitting the following documents; however, the director did not acknowledge in his decision the evidence furnished by the applicant:

1. A copy of a Registration Form for the Belmont Community Adult School, Los Angeles Unified School District, dated January 29, 2001, for [REDACTED]. The form does not bear the signature [REDACTED]. While it is noted that the registration form was dated January 29, 2001, the applicant claimed on his TPS application that he entered the United States in January 2001; the applicant did not indicate when in January 2001 he entered the United States. It is also noted that the applicant had previously furnished with his TPS application a copy of a Registration Form for the Belmont Community Adult School, Los Angeles Unified School District, dated May 17, 2001, for [REDACTED] [the applicant's name [REDACTED] appears to have been subsequently inserted] and was signed by [REDACTED]. There is no evidence that [REDACTED] one and the same person.
2. A copy of a rent receipt dated February 1, 2001. This receipt is generic and has little evidentiary value. Although the receipt was signed by a [REDACTED] the telephone number of [REDACTED] was not listed. Furthermore, the applicant failed to submit supporting evidence, such as a copy of a rental agreement or a notarized affidavit from his landlord.
3. Copies of two receipts dated "150101" and "080201." These receipts are also generic and have little evidentiary value. Both receipts are written in the Spanish language, without English translation, and do not show the name of the establishment who issued the receipts.
4. The remaining documents furnished (December 20, 2001; September 16, 2002; October 4, 2002; and November 9, 2002) are dated subsequent to the filing of the TPS application on December 5, 2001.

The applicant has failed to establish that he has met the criteria for continuous residence in the United States since February 13, 2001, and continuous physical presence since March 9, 2001, as described in 8 C.F.R. § 244.2(b) and (c). Therefore, the application will also be denied for this 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 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.