

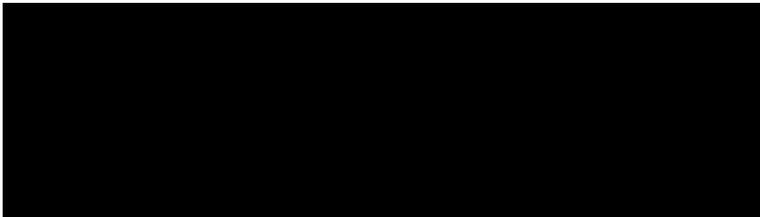
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U.S. Department of Homeland Security  
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U.S. Citizenship  
and Immigration  
Services

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M/

FILE: [REDACTED]  
[EAC 05 207 74047]

OFFICE: Vermont Service Center

DATE: APR 27 2007

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, Vermont Service Center. It is now on appeal before the Administrative Appeals Office (AAO). The appeal will be dismissed.

The applicant claims to be a 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 on the grounds that the applicant failed to establish that he was eligible for late TPS registration, that he had maintained continuous physical presence and continuous residence in the United States since the dates applicable for TPS applicants from El Salvador, as well as his identity as an El Salvadoran national.

On appeal the applicant's mother states that her son entered the United States in 2003 because there were no relatives to care for him in El Salvador, and submits some Spanish-language 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 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.

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.

El Salvadoran nationals applying for TPS must demonstrate continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States since March 9, 2001. The initial registration period for El Salvadorans was from March 9, 2001 through September 9, 2002. The applicant filed his initial Form I-821, Application for Temporary Protected Status, on April 25, 2005. On that form the applicant stated that he was born in El Salvador on December 15, 1990, and entered the United States on December 10, 2003.

To qualify for late registration, the applicant must provide evidence that during the initial registration period she met at least one of the conditions 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 Citizenship and Immigration Services (CIS). *See* 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. *See* 8 C.F.R. § 244.9(b).

On June 1, 2006, the service center requested the applicant to submit evidence that he met one of the criteria for late registration during the initial registration period, as well as evidence of his continuous residence in the United States since February 13, 2001, and his continuous physical presence in the United States since March 9, 2001. The applicant was also requested to submit a copy of a photo identity document. The applicant did not respond to the request for evidence. On August 7, 2006, therefore, the director denied the application on the grounds that the applicant failed to establish that he was eligible for late TPS registration, failed to establish that he had been continuously resident in the United States since February 13, 2001, and continuously physically present in the United States since March 9, 2001, and failed to establish his identity.

On appeal the applicant's mother confirms that her son did not enter the United States until 2003 and, as a minor, has been under her care since then. Citizenship and Immigration Services (CIS) records indicate that the applicant's mother, [REDACTED] filed a TPS application during the initial application period for El Salvadoran nationals, was approved for TPS, and has subsequently re-registered for TPS. Accordingly, the AAO determines that the applicant meets the criterion at 8 C.F.R. § 244.2(f)(2)(iv) for late TPS registration. As the applicant did not enter the United States until December 15, 2003, however, he has not been continuously physically present in the United States since March 9, 2001, nor continuously resident in the United States since February 13, 2001, as required for TPS applicants from El Salvador under 8 C.F.R. § 244.2(b) and (c). Late filing children of TPS-eligible parents must meet the same continuous residence and continuous physical presence requirements as their parents. Thus, if a child of El Salvadoran parents was not a continuous resident of the United States since February 13, 2001, and continuously physically present in the country since March 9, 2001, he or she is ineligible for TPS regardless of the parents' eligibility.

The AAO will affirm the director's denial of the application on the grounds that the applicant has not been continuously resident in the United States since February 13, 2001, and continuously physically present in the United States since March 9, 2001, as required for all TPS applicants from El Salvador. Since the applicant has still not submitted a photo identification to accompany his other evidence of nationality and identity, the AAO will affirm the director's denial of the application on this ground as well.

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.