



U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED] OFFICE: VERMONT SERVICE CENTER DATE: **AUG 28 2007**
[REDACTED] consolidated herein]
[EAC 06 290 79468]

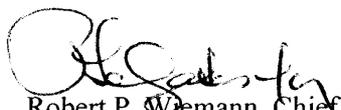
IN RE: Applicant: [REDACTED]

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 (VSC), 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 record reveals that the applicant filed a first TPS application on April 25, 2005, after the initial registration period had ended, under receipt number WAC 05 207 83806. The Director of the California Service Center (CSC) denied that application on June 22, 2006, due to abandonment because the applicant failed to appear for a fingerprinting appointment. After a review of the record, the AAO concurs with the director's denial decision.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on July 17, 2006, and indicated that it was his first application to register to TPS.

The VSC director denied the application on January 22, 2007, because the applicant failed to establish he was eligible for late registration. The director also found that the applicant failed to establish he had continuously resided in the United States and had been continuously physically present in the United States during the periods required by the regulations. The applicant filed his current appeal from that decision on February 21, 2007.

On appeal, the applicant submits a statement and additional documents.

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 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 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 current initial application with Citizenship and Immigration Services (CIS) on July 17, 2006.

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 director determined that the applicant had failed to establish his eligibility for late registration as well as his continuous physical presence and continuous residence in the United States during the periods required by the regulations, and denied the application. On appeal, the applicant claims that he is eligible for late registration under TPS because he is the child of an alien currently eligible to be a TPS registrant. In support of his argument, he submits a photocopy of his mother's Employment Authorization Card. He further claims that he has been continually present in the United States since before February 13, 2001. He also submits photocopies of documents to support this claim.

A "child" is defined under Section 101(b)(1) of the Act as an unmarried person under twenty-one years of age. The photocopy of applicant's El Salvadoran national identity card indicates that he was born on April 20, 1971. Therefore, he attained the age of twenty-one years old on April 20, 1992. After that date, he was no longer a "child" as defined under the Act. Since he filed his current TPS application on July 17, 2006, he was not eligible for late registration under 8 C.F.R. § 244.2(f)(2) cited above.

The applicant has submitted evidence in an attempt to establish his qualifying residence and physical presence in the United States. However, this evidence does not mitigate the applicant's failure to file his Form I-821 within the initial registration period. The applicant has not submitted any evidence 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 TPS will be affirmed.

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.