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U.S. Citizenship  
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FILE:



OFFICE: CALIFORNIA SERVICE CENTER

DATE:

**FEB 28 2007**

[WAC 05 209 75559]

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, 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 director denied the application because the applicant had “failed to register in a timely manner.”

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

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 term *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.

The term *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.

Persons applying for TPS offered to El Salvadorans must demonstrate that they have continuously resided in the United States since February 13, 2001, and that they have been continuously physically present in the United States since March 9, 2001. On July 9, 2002, the Attorney General announced an extension of the TPS designation until September 9, 2003. Subsequent extensions of the TPS designation have been granted, with the latest extension valid until September 9, 2007, upon the applicant's re-registration during the requisite time period.

The initial registration period for El Salvadorans was from March 9, 2001, through September 9, 2002. The record shows that the applicant filed his initial application on April 27, 2005.

To qualify for late registration, the applicant must provide evidence that during the initial registration period from March 9, 2001 through September 9, 2002, he fell within the provisions described in 8 C.F.R. § 244.2(f)(2) (listed 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). 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 was ineligible for late registration and denied the application on April 11, 2006.

On appeal, the applicant asserts that he was unaware of the fact that his asylum case was closed when his mother was granted lawful permanent resident (LPR). He further asserts that he did not register on a timely basis because the Los Angeles Asylum Office kept informing him that his LPR was pending since his mother had been granted, and that he also would be granted. He submits evidence to corroborate his claim.

The record indicates that on July 10, 1995, the applicant's mother [REDACTED] file [REDACTED], filed Form I-589, Request for Asylum in the United States. On July 30, 1997, the applicant was included in [REDACTED]'s asylum application as her dependent. Form I-881, Application for Suspension of Deportation or Special Rule Cancellation of Removal (pursuant to section 203 of Public Law 105-100 (NACARA)) was subsequently filed by [REDACTED] on March 13, 2000. On September 15, 2000, her NACARA application was approved, and she was granted adjustment of status to lawful permanent resident (LPR) under the classification of Z15. Also on September 15, 2000, [REDACTED] withdrew her application for asylum.

The applicant was born on September 22, 1979. Seven days prior to his 21<sup>st</sup> birthday, his mother was granted LPR and withdrew her application for asylum on September 15, 2000. There is no evidence in the record that the applicant filed Form I-881, or a Form I-589 subsequent to the withdrawal of his mother's Form I-589 in which he was a dependent. However, it is noted that on June 26, 2001, the California Service Center denied the applicant's application for employment authorization. He was advised that he was not eligible for employment authorization under the provisions of 8 C.F.R. § 274a.12(c)(8) because "Service records now show that you have been granted status as a permanent resident of the United States under Section 245 of the Immigration and Nationality Act." On July 18, 2001, the applicant made an inquiry with the Service Center regarding the status of Form I-551, Alien Registration Card. The record does not contain evidence that a response was made to that inquiry. On March 3, 2003, another inquiry was made regarding the status of Form I-551 by the applicant's former attorney. On December 29, 2003, the Los Angeles Asylum Office responded: "The information that you previously received about the status of this case was erroneous. Your client is not granted and cannot expect to receive an I-551 (Green Card.) In order to proceed with the case your client needs to submit to the Laguna Office a copy of his mother's I-589 that he was added to plus a Form I-881 with the required filing fees."

Regulations at 8 C.F.R. § 244.2(g) allow the applicant a 60-day period immediately following the expiration or termination of condition, in this case, after the withdrawal of the asylum application on September 15, 2000, to file a TPS application for late registration described in 8 C.F.R. § 244.2(f)(2)(ii). In this case, however, the applicant was erroneously advised that he had been granted status as a permanent resident of the United States. The Los Angeles Asylum Office rectified that error on December 29, 2003. The applicant had a 60-day period from this date to file a TPS application for late registration. The applicant did not file his TPS application until April 27, 2005.

Accordingly, 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 TPS application 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.