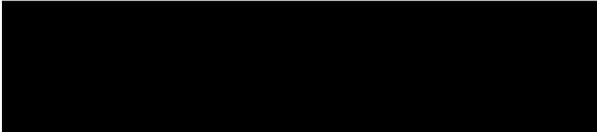


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U.S. Citizenship
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FILE: [REDACTED]
[WAC 05 165 71066]

OFFICE: California Service Center

DATE: MAR 02 2007

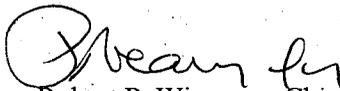
IN RE: Applicant: [REDACTED]

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, California 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 record failed to establish the applicant's identity, that the applicant was continuously resident and physically present in the United States for the required periods of time, and that he is eligible for late registration.

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.

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 since March 9, 2001. The initial registration period for El Salvadorans was from March 9, 2001, through September 9, 2002. The record reveals that the applicant filed his initial TPS application with Citizenship and Immigration Services (CIS) on March 14, 2005.

To qualify for late registration, the applicant must provide evidence that during the initial registration period he satisfied at least one of the criteria enumerated 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. *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 May 5, 2006, the applicant was requested to submit evidence establishing his eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2), his date of entry into the United States, his nationality/identity, as well as his continuous residence in the United States since February 13, 2001 and continuous physical presence in the United States since March 9, 2001. In response the applicant, who claims to have entered the United States without inspection in May 1999, submitted a letter from an individual who states that the applicant has lived at his present address since January 1, 2000, and a photocopy of a rental application form filled out by the applicant.

In a Notice of Decision issued on July 12, 2006, the director determined that the evidence submitted by the applicant failed to establish his identity, that he met the continuous residence and continuous physical presence requirements for TPS applicants from El Salvador, and that he is eligible for late registration.

The applicant filed a timely appeal, but did not cite any errors in the director's decision or submit any additional documentation in support of the application. The previously submitted letter attesting to the applicant's residence at his current address since January 1, 2000, is a photocopy, rather than an original. Though it purports to emanate from an organization called The Apartment Association of Greater Los Angeles, the signatory, [REDACTED] does not identify her title or position with the organization and does not explain the business relationship between the organization and the rental unit located at [REDACTED] in Van Nuys, California. The

organization's name does not appear on the "Application to Rent" that was filled out by the applicant and dated "1/1/2000." In fact, the rental application does not identify the landlord at all, does not include a countersignature from the landlord or the landlord's representative, and does not bear a date stamp or any other proof that the form was actually prepared on January 1, 2000.

Based on the foregoing analysis, the AAO concurs with the director's decision that the documentation of record does not demonstrate the applicant's qualifying continuous residence in the United States since February 13, 2001 and continuous physical presence in the United States since March 9, 1991. Therefore, the director's decision to deny the application for these reasons will be affirmed.

Nor does the record include any evidence to establish that the applicant meets any of the criteria for late registration described in 8 C.F.R. § 244.2(f)(2), or a photo identification of the applicant, in accompaniment of his birth certificate, as requested in the notice of intent to deny on May 5, 2006, to establish the applicant's nationality and identity. Therefore, the director's decision to deny the application for these reasons will also be affirmed.

The application will be denied for the above stated reasons, with each considered as an independent and alternative basis for denial. 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.