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

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FILE: [REDACTED]
[WAC 05 217 71971]

Office: CALIFORNIA SERVICE CENTER Date: MAY 01 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:
[REDACTED]

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 initial application was denied by the Director, Texas Service Center. A subsequent application for late registration was denied by the Director, California Service Center, and is currently before the Administrative Appeals Office (AAO) on appeal. The late registration application will be withdrawn, and the case will be remanded for further consideration and action.

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 applicant filed a first application for TPS under receipt number SRC 04 029 53172. The director denied the application on April 17, 2004, because the applicant failed to establish that he was eligible for late registration.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on May 2, 2005, and indicated that he was re-registering for TPS.

The CSC director denied the re-registration application on September 30, 2005, because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS. The applicant filed his current appeal from that decision on October 18, 2005.

On appeal, counsel argues that the director erred in his decision because the application is for late initial registration, not re-registration.

The record of proceeding reveals that the applicant filed a first TPS application on November 7, 2003, after the initial registration period had closed. 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). If the qualifying condition or application has expired or been terminated, the individual must file within a 60-day period immediately following the expiration or termination of the qualifying condition in order to be considered for the late initial registration. 8 C.F.R. § 244.2(g).

On March 5, 2004, the applicant was provided the opportunity to submit evidence establishing his eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2). The applicant was also requested to submit evidence establishing his continuous residence in the United States since February 13, 2001, and his continuous physical presence in the United States from March 9, 2001, to the filing date of the application. The applicant was also requested to submit a photocopy of an official photo ID card. The applicant, in response, provided copies of the following:

- (1) School identification card from [REDACTED]
- (2) Ident-A-Kid photo ID issued on September 11, 2002;
- (3) Birth certificate from El Salvador;
- (4) English translation of his birth certificate;
- (5) Certification from [REDACTED] Principal of Bowen Elementary School, stating that [REDACTED] was a second grade student at the school during the 1996-97 school year. Mr. [REDACTED] further stated that he has no way of confirming that [REDACTED] was the same [REDACTED] who was a student there;
- (6) Certificate of completion of elementary school by [REDACTED] on May 24, 2000 at Rangeland Elementary School;

- (7) Certificate of completion by ██████████z on May 28, 2003 at Moore Traditional Middle School;
- (8) Fingerprint application worksheet dated January 2, 2004.

However, the director made a determination that the applicant did not present evidence of his eligibility for late registration. Therefore, the director denied the application. There is no indication in the record that an appeal from the denial was filed by the applicant.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on May 5, 2005, and indicated that it was his first application for TPS.

On February 5, 2006, the applicant was provided the opportunity to submit evidence establishing his eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2). The applicant was also requested to submit evidence establishing his continuous residence in the United States since February 13, 2001, and his continuous physical presence in the United States from March 9, 2001, to the filing date of the application. The applicant was also requested to submit proof of his nationality and identity. The applicant, in response, provided copies of the following:

- (1) English translation of his birth certificate;
- (2) Birth certificate from El Salvador;
- (3) Form I-797, Receipt of TPS application submitted by ██████████;
- (4) Form I-797, Approval of TPS application issued to ██████████;
- (5) Form I-797, Receipt for \$70.00 fingerprint fee submitted by ██████████;
- (6) Case Status printout from USCIS website indicating that TPS application with case number WAC 05 210 80677 had been approved.
- (9) Certification from ██████████, Principal of Bowen Elementary School, stating that ██████████ was a second grade student at the school during the 1996-97 school year. Mr. ██████████ further stated that he has no way of confirming that ██████████s was the same ██████████z who was a student there;
- (10) Letter from ██████████, Principal of Rangeland Elementary School stating that ██████████ attended that school as a fifth grade student from 1999 through 2000.
- (11) 2001 IRS Form 1040A showing ██████████ as a dependent of ██████████;
- (12) 2002 IRS Form 1040A showing ██████████ as a dependent of ██████████;
- (13) 2003 IRS Form 1040A showing ██████████ as a dependent of ██████████;
- (14) Letter from ██████████, Counselor at Moore Traditional High School dated March 1, 2005, stating that H. ██████████z enrolled at that school on August 18, 2003.
- (15) School identification card from Moore Traditional High School;
- (16) Fingerprint application worksheet dated January 2, 2004.

The director treated the application as a re-registration and denied it because the applicant's initial TPS application was denied on April 17, 2004.

On appeal, counsel argues that the director erred in his decision because the application is for late initial registration, not re-registration. In support of her argument, counsel does not submit any additional documentary evidence, but refers instead to the supporting documents submitted with the TPS application and in the response to the Notice of Intent to Deny.

The record indicates that the applicant's mother [REDACTED] applied for TPS on December 9, 2004. The CSC director approved her application on February 25, 2005. The applicant is therefore eligible for late registration under TPS because he is the child of an alien currently eligible to be a TPS registrant.

The director's decision denying the application is therefore withdrawn and the remaining issues whether the applicant has established his continuous residence in the United States since February 13, 2001, and his continuous physical presence in the United States since March 9, 2001, will be remanded for further adjudication.

ORDER: The director's decision is withdrawn, and the application is remanded for a new decision.