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U.S. Citizenship
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Services

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FILE:

[EAC 06 304 78585]

OFFICE: Vermont Service Center

DATE: **SEP 18 2007**

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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Vermont Service Center (VSC). It is now on appeal before the Administrative Appeals Office (AAO). The appeal will be dismissed.

The applicant is 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 and that he met the continuous residence and continuous physical presence requirements for El Salvadoran nationals.

On appeal the applicant asserts that he has lived in the United States since March 1999 and submits some letters from acquaintances in the United States in addition to photocopies of documentation dating from 1999 to 2005.

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 record shows that the applicant filed his initial Form I-821, Application for Temporary Protected Status, on July 23, 2006 – nearly four years after the close of the initial registration period.

To qualify for late registration, the applicant must provide evidence that during the initial registration period he 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 May 17, 2006, the service center requested the applicant to submit evidence that he was eligible for late registration, and that he has been a resident of and physically present in the United States since the applicable dates in February and March 2001 for TPS applicants from El Salvador. The applicant did not respond within the requested 30 days. On February 16, 2007, therefore, the director denied the application on the grounds that the applicant failed to establish that he was eligible for late TPS registration under 8 C.F.R. § 244.2(f)(2), that he had continuously resided in the United States since February 13, 2001, in accordance with section 244(c)(1)(A)(ii) of the Act, and that he had been continuously physically present in the United States from March 9, 2001, to the date his TPS application was filed, in accordance with section 244(c)(1)(A)(i) of the Act.

On appeal the applicant asserts that he has lived in the United States since he entered the country illegally in March 1999 from Tecate, Mexico. The applicant submits some letters from acquaintances in the United States who state that they lived or worked with the applicant over the years from 1999 to 2007. The applicant also submits photocopies of some earnings statements dating from 1999 and 2003-2005; some receipts from an international courier service in the years, 1999, 2000, and 2001 for packages mailed from the applicant in the United States to a recipient in El Salvador; some receipts for money transfers in 2001 from the applicant in the United States to a recipient in El Salvador; and the applicant's Form W-2, Wage and Tax Statement, for 2002. This evidence of his residence and physical presence in the United States, however, does not mitigate the applicant's failure to file his application for TPS within the initial registration period for El Salvadoran nationals. No evidence has been submitted to establish that the applicant meets any of the criteria for late registration described in 8 C.F.R. § 244.2(f)(2). Accordingly, the director's decision to deny the application for TPS on this ground 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 that burden.

ORDER: The appeal is dismissed.