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U.S. Department of Homeland Security
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Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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[REDACTED]

FILE:

[REDACTED]

OFFICE: California Service Center

DATE:

AUG 01 2008

– consolidated herein]

[WAC 03 260 55986]

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 on appeal. The appeal will be dismissed.

The applicant is 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 failed to establish he was eligible for late registration.

On appeal, the applicant asserts his eligibility for TPS.

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 initial registration period for Salvadorans was from March 9, 2001, through September 9, 2002. The record reveals that the applicant filed the current application with Citizenship and Immigration Services (CIS) on September 24, 2003.

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).

On November 20, 2003, 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). The applicant was also requested to submit evidence establishing his continuous residence since February 13, 2001, and his continuous physical presence in the United States since March 9, 2001. The applicant was also requested to submit copies of documentation regarding his identity and his nationality. In response, the applicant submitted some documentation in support of his claim of eligibility.

The director determined that the applicant had failed to establish he was eligible for late registration and denied the application on January 20, 2005.

On appeal, the applicant requests that his initial TPS application, filed on May 22, 2001, be reopened on motion. The applicant also provides copies of the following documentation: the VSC director's denial dated April 17, 2003; a letter from Casa Del Immigrante dated December 1, 2003; an inquiry result report from the Superior Court of New Jersey dated August 19, 2003; a letter dated August 15, 2003; the birth certificate of his child born on July 1, 2001; his Social Security card; a receipt dated May 18, 2001 from Comcast of Arlington County; his earnings statements from Alex Construction, Incorporated dated April 5, 2000, and April 26, 2002; an earnings statement from P & D Drywall Contractor dated May 16, 2003; two Virginia Lease Agreements made on February 22, 2001 and on December 28, 2001; his Employment Authorization Documents (EAD's); and his Internal Revenue Service (IRS) Form 1040, U.S. Individual Income Tax Returns, for the years 2001, 2002, and 2003.

The record of proceedings reflects that the applicant filed a TPS application on April 9, 2001, under Receipt number EAC 01 172 54256. That TPS application was denied on August 5, 2003. The applicant filed an appeal

on December 4, 2003, which was terminated by the director on May 28, 2004. Therefore, this will be considered as an appeal of the director's decision on the current application.

On appeal, the applicant submits some documentation in an attempt to establish his qualifying continuous residence and continuous physical presence in the United States. However, the applicant did not submit 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.

Although not addressed by the director, the record of proceedings contains a Federal Bureau of Investigation (FBI) report reflecting that the applicant was arrested by the Elizabeth Police Department of New Jersey on July 1, 1999, and charged with "Engage in Prostitution" under the alias [REDACTED]. In any future proceedings before CIS, the applicant must submit evidence of the final court disposition of this and any other charges against him.

It is also noted that the applicant was served a Notice to Appear based on his apprehension by the United States Border Patrol agents on June 11, 1998.

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