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FILE: [REDACTED] OFFICE: Vermont Service Center DATE: **JUL 29 2008**
[EAC 08 018 79539]

IN RE: Applicant: [REDACTED]

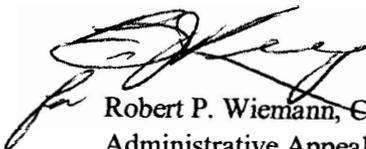
APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

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 application was denied by the Director, Vermont 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 failed to establish he was eligible for late registration.

On appeal, counsel asserts the applicant's 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.

Persons applying for TPS offered to El Salvadorans 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 Salvadorans was from March 9, 2001, through September 9, 2002. The record reveals that the applicant filed his initial application with Citizenship and Immigration Services (CIS) on September 21, 2007.

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 February 7, 2008, the director denied the application after he determined that the applicant had failed to establish he was eligible for late registration.

On appeal, counsel states that the applicant's asylum application was "closed on July 17, 2008" and he was given 60 days from that date to submit his application. Counsel further states that "60 days from July 17, 2008 gives him a deadline of September 15, 2008." Counsel requests that the applicant's TPS application be considered timely-filed.

It is noted that counsel erroneously states that the applicant's asylum application was closed on July 17, 2008 and that the applicant submitted his TPS application on September 21, 2008. In this case, the applicant's asylum application was denied on July 17, 2007 and he did not submit his initial TPS application until September 21, 2007, more than 60 days after the denial of his asylum application.

The applicant has submitted evidence in an attempt to establish his qualifying residence and physical presence in the United States. However, the applicant has not demonstrated that he is eligible for late initial registration. The applicant is basing his appeal on his application for asylum which was pending during the initial registration period of March 9, 2001, through September 9, 2002. While the applicant did have an asylum application pending during the initial registration period, in order to qualify for late initial registration for TPS, the applicant must have filed his TPS application within 60 days of his asylum application being denied. The applicant's asylum application was denied and he was ordered removed from the United States on July 17, 2007. The applicant must have filed his TPS application by September 15, 2007 or the next business day which was Monday, September 17, 2007. In this case, the TPS application was not filed until September 21, 2007. There is

no waiver of these requirements, even for humanitarian reasons. Consequently, 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.