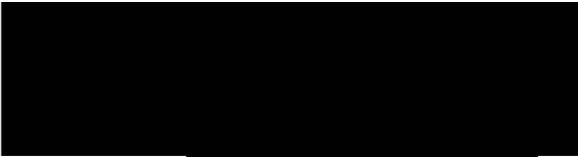


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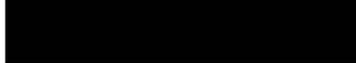


**U.S. Citizenship
and Immigration
Services**

PUBLIC COPY



FILE:



OFFICE: Vermont Service Center

DATE:

MAR 19 2008

[EAC 07 012 70561]

INRE:

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.

for **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 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 because the applicant failed to establish he was eligible for late registration. The director also found that the applicant had failed to establish his qualifying continuous residence and continuous physical presence in the United States during the requisite periods.

On appeal, the applicant claims that he is eligible for late registration because he is the child of a TPS recipient. He also asks CIS to reconsider the reasons for the denial of his TPS application and states that he doesn't want to lose the opportunity to establish his immigration status in order to help his family.

The record reveals that the applicant did file an initial application for TPS on **August 27, 2006**. However, the application was rejected on September 27, 2006 due to an incorrect filing fee. The applicant, in response, resubmitted his completed application with the appropriate fees to CIS on October 12, 2006. The application was received after the initial registration period and was accepted under the late initial filing provision of Title 8, Code of Federal Regulation, Part 244.

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.

- (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 (t)(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.

Persons applying for TPS offered to El Salvadorans 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 designation of TPS for El Salvadorans has been extended several times, with the latest extension valid until March 9, 2009, upon the applicant's re-registration during the requisite time period.

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). 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).

The first issue in this proceeding is whether the applicant is eligible for late registration.

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

October 12, 2006. 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(t)(2) above.

On February 8, 2007, the applicant was requested to submit evidence establishing his eligibility for late registration as set forth in 8 C.F.R. § 244.2(t)(2). The applicant was also requested to submit evidence establishing his qualifying continuous residence and continuous physical presence in the United States. The applicant, in this case, did not respond to the notice.

The director determined that the applicant had failed to establish he was eligible for late registration and denied the application on April 11, 2007.

On appeal, the applicant claims that he is eligible for late initial registration because he is the child of an alien currently eligible to be a TPS registrant. As proof of this eligibility, the applicant enclosed a photocopy of his mother's EAD Card. The applicant submitted sufficient evidence and the record reveals that the applicant is a child of a TPS registrant, therefore, the director's decision on this ground will be withdrawn.

The second issue in this proceeding is whether the applicant has established his continuous residence in the United States since February 13, 2001 or his continuous physical presence in the United States since March 9, 2001.

On appeal, the applicant claims that CIS sent him a letter on February 8, 2007 but that he has never received it because there was a different ZIP code on the letter. The applicant also attempts to explain why he did not respond to the Notice of Intent to Deny sent by CIS and submits additional evidence. In addition, with his appeal, the applicant submits his student ID from The Houston Community College System; and, receipt notices from CIS.

The applicant also provided the following documentation: a copy of his Salvadoran birth certificate and an English translation; a copy of PIN number [REDACTED] issued on March 21, 2003 from the IRS; a copy of an immunization record showing inoculations during the period from 1988 to 2003; copies of the applicant's 2003 to 2005 Student ID cards from Westbury High School; copies of the applicant's 2002 to 2004 official transcripts from Westbury High School; copies of his 2002 to 2005 Academic Achievement Record from Stanford, Achievement Test Series, Ninth Edition; a copy of a Read Across Texas! certificate dated July 5, 2001 from Frank Library; a copy of a medical receipt dated March 16, 2002 for an eye examination; a copy of a September 8, 2002 invitation certificate to The Museum of Fine Arts, Houston; a copy of an application for Title III Immigrant Education Program, and a copy of a June 9, 2003 Voucher of Tuition, Summer School 2003 from Westbury High; a copy of a hospital record from the Harris County Hospital District Patient Account Department dated June 22, 2004; a copy of an Immunization notice postmarked May 5, 2003; and, a copy of a diploma from West High School dated May 28, 2005.

The applicant claimed that he had no doubt that CIS had sent him a letter on February 8, 2007, but he failed to receive the letter because of the different ZIP codes on his mailing address. Conversely, the record reveals that the Receipts Notice(s) (1-765, Application(s) for Employment Authorization and ASC A ointment N.tice from CIS dated October 19, 2006 and October 24, 2006 were sent to a

[REDACTED], which the applicant claimed to be a wrong ZIP code. It is noted that the applicant listed his ZIP code on the Form 1-821 correctly but he indicated on the Form 1-765 that it was [REDACTED]. It is the applicant's responsibility to provide a complete and correct address on all of his applications. The director sent a Notice of Intent to Deny (NOID) and a Notice of Decision for the Form 1-765 to [REDACTED]. However, the NOm for the Form 1-821 was sent to the correct ZIP code [REDACTED] t did not respond. The Notice of Denial for the Form 1-821 was sent to [REDACTED] Houston, TX 77074 on February 8, 2007, which is the applicant's correct mailing address.

The applicant has not submitted sufficient credible evidence to establish his qualifying continuous residence in the United States since February 13, 2001, or his continuous physical presence in the United States since March 9, 2001. Although the applicant claimed to have been in the United States since December 15, 2000, he did not file his initial TPS application until October 12, 2006, over four years after the initial registration period had ended. Moreover, it is noted that on her Form 1-821, Application for Temporary Protected Status, under CIS receipt number SRC 01 200 54427, filed on April 27, 2001, the applicant's mother indicated that all of her children, including the applicant, resided in El Salvador. The applicant has failed to establish that he has met the continuous residence and continuous physical presence criteria described in 8 C.F.R. § 244.2(b) and (c). Consequently, the director's decision to deny the application for TPS on these grounds will be affirmed.

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.