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U.S. Citizenship
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FILE:



Office: VERMONT SERVICE CENTER

Date:

[WAC 05 231 71077]

IN RE:

Applicant:



APPLICATION:

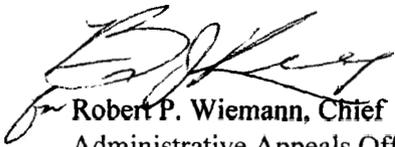
Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

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 Vermont Service Center. Any further inquiry must be made to that office.


Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, California Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. 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 record reveals that the applicant filed a TPS application on March 12, 2001 during the initial registration period under CIS receipt number LIN 01 130 53768. The director denied that application for abandonment on August 9, 2001, because the applicant failed to appear for fingerprinting. There is nothing in the record to indicate that the applicant filed a motion to reopen the director's decision. The record of proceedings reveals that the applicant was fingerprinted in connection with his subsequent application. The applicant submitted a second TPS application on March 27, 2002 during the initial registration period under CIS receipt number LIN 02 058 52340. The director denied that application for abandonment on February 3, 2003, because the applicant failed to provide evidence to establish his continuous physical presence in the United States during the qualifying period. There is nothing in the record to indicate that the applicant filed a motion to reopen the director's decision.

The applicant filed the current Form I-821, Application for Temporary Protected Status on May 19, 2005, and indicated that he was re-registering for TPS.

The director denied the re-registration application because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS.

On appeal, the applicant states that he does not understand why his application was denied. The applicant also submits evidence in an attempt to establish continuous residence and continuous physical presence in the United States during the qualifying period.

If the applicant is filing an application as a re-registration, a previous grant of TPS must have been afforded the applicant, as only those individuals who are granted TPS must register annually. In addition, the applicant must continue to maintain the conditions of eligibility. 8 C.F.R. § 244.17.

In this case, the applicant has not previously been granted TPS. Therefore, he is not eligible to re-register for TPS. Consequently, the director's decision to deny the application will be affirmed.

It is noted that the director's decision does not explore the possibility that the applicant was attempting to file a late initial application for TPS instead of an annual re-registration.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an applicant may apply for TPS during the initial registration period, or:

- (f) (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 El 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 May 19, 2005.

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 appeal, the applicant states that he does not understand why his application was denied. The applicant also submits evidence in an attempt to establish continuous residence and continuous physical presence in the United States during the qualifying period. However, this does not mitigate the applicant's failure to file his TPS application within the initial registration period. It is noted that the applicant was fingerprinted on October 6, 2006. However, as discussed above, the applicant failed to establish continuous residence and continuous physical presence during the qualifying period. The applicant has provided evidence that indicates he was present in the United States prior to the requisite periods to establish continuous residence and continuous physical presence. In an attempt to establish continuous residence and continuous physical presence during the qualifying period, the applicant provided:

1. Copies of hand-written rent receipts dated February 3, 2001, March 1, 2001, March 15, 2001 and April 1, 2001.

2. Copies of a 2001 W-2 Earnings Statement and the front page of 2002, 2003 and 2004 Form 1040, U.S. Individual Income Tax Return.
3. Copies of employment authorization cards issued on June 12, 2001 August 6, 2002 and September 10, 2002, an El Salvadoran passport issued in Chicago on August 14, 2003, and a Social Security card.
4. Copies of an Earnings Statement dated September 13, 2001.
5. Copies of a Personal Auto Policy from The Hartford Insurance Company for a policy period from June 26, 2000 to June 26, 2001.

The hand-written rent receipts are not supported by any corroborative evidence. It is reasonable to expect that the applicant would have some type of contemporaneous evidence to support these assertions; however, no such evidence has been provided. Furthermore, the applicant submits one receipt dated March 1, 2001 for March rent and another receipt dated March 15, 2001 for the same month's rent. The March 15, receipt also appears to have had the date altered. This discrepancy has not been satisfactorily explained. Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth, in fact, lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988). The 2001 W-2 indicates the applicant worked in the United States in 2001, but that document can not establish the applicant's continuous residence since February 13, 2001 and continuous physical presence from March 9, 2001 to the filing date of the TPS application. Similarly, the auto policy indicates the policy was issued on June 26, 2000, but it cannot establish that the applicant was present in the United States during the qualifying period. Of the remaining evidence, one of the employment authorization cards indicates a date of June 12, 2001, and is the earliest date presented as evidence of the applicant's presence in the United States during the requisite period. Therefore, the evidence is of little or no probative value in establishing the applicant's continuous residence and continuous physical presence during the requisite period.

Consequently, the director's decision to deny the application for temporary protected status will be affirmed.

The applicant has failed to provide any evidence to establish that this application should be accepted as a late initial registration under 8 C.F.R. § 244.2(f)(2). Therefore, the application also must be denied for this reason.

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 temporary protected status 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.