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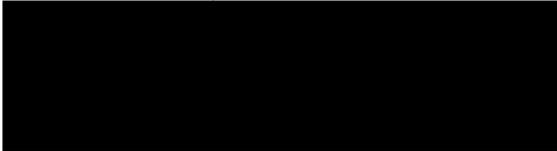
U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



U.S. Citizenship
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FILE: [REDACTED] OFFICE: VERMONT SERVICE CENTER DATE: **MAR 05 2010**
[EAC 08 052 83994]

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:



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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Vermont Service Center, and is now before the Administrative Appeals Office (AAO) 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.

On appeal, counsel asserts that the applicant qualifies for late registration as he had an application for relief from removal pending during the initial registration period. Counsel asserts, “the fact that the application for relief pending during the initial registration period was ultimately denied does not preclude an applicant’s ability to file a subsequent late initial registration TPS application for a form of relief from removal.”

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. Subsequent extensions of the TPS designation have been granted, with the latest extension granted until September 10, 2010, upon the applicant's re-registration during the requisite period.

The record reveals that the applicant filed his initial TPS application (LIN0120253554) with U.S. Citizenship and Immigration Services (USCIS) on June 14, 2001. On November 6, 2001, the Director, Nebraska Service Center, denied the application because the applicant failed to submit evidence of photo identification. No appeal was filed from the denial of this application.

The applicant filed another TPS application (LIN0227850053) on September 3, 2002. On February 26, 2003, the Director, Nebraska Service Center, denied the application because the applicant failed to establish his identity with a photo document and failed to establish entry into the United States from before February 13, 2001. No appeal was filed from the denial of this application.

The applicant filed another TPS application (LIN0324950026) on August 18, 2003. On November 13, 2003, the Director, Nebraska Service Center, denied the application because the applicant failed to establish eligibility for late registration, continuous residence since February 13, 2001, and continuous physical presence since March 9, 2001. The director also noted that the applicant failed to submit current photo identification.¹ The applicant's appeal from the denial of this application was dismissed by the AAO on June 24, 2005.

The applicant filed another TPS application (WAC0521688865) on May 4, 2005. On April 4, 2006, the Director, California Service Center, denied the application. No appeal was filed from the denial of this application.

¹ The record reflects that the applicant submitted a copy of his El Salvadoran passport issued on August 1, 2003.

The applicant filed another TPS application (EAC0635474691) on September 19, 2006. On February 27, 2007, the Director, Vermont Service Center, denied the application because the applicant failed to establish eligibility for late registration, continuous residence since February 13, 2001 and continuous physical presence since March 9, 2001. No appeal was filed from the denial of this application

The applicant filed the current TPS application on October 19, 2007, and indicated that he was filing for late registration.

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 March 28, 2008, 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, in response, only provided evidence in an attempt to establish his qualifying residence and physical presence in the United States.

The director determined that the applicant had failed to establish he was eligible for late registration and denied the application on January 9, 2009.

On appeal, counsel seemingly implies that submitting a TPS application during the initial registration renders the applicant eligible for late initial registration.

A TPS application is not a change of status application. Change of status, by regulation, is limited to a change of one nonimmigrant classification to another. TPS does not render nonimmigrant status to the applicant. Consequently, it does not qualify as a change of status application. The provisions for late registration detailed in 8 C.F.R. § 244.2(f)(2) were created in order to ensure that TPS benefits were made available to aliens who did not register during the initial registration period for the various circumstances specifically identified in the regulations. Having an application for TPS during the initial registration period does not render an alien eligible for late registration under 8 C.F.R. § 244.2(f)(2).

The applicant has not submitted evidence that he has met any of the criteria for late registration outlined in 8 C.F.R. § 244.2(f)(2). 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.