

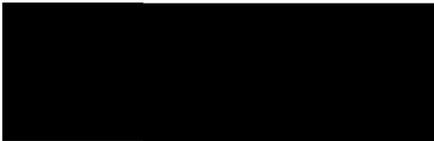
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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

PUBLIC COPY



MA

DATE:

Office: VERMONT SERVICE CENTER

FILE:



MAR 19 2012

IN RE:

Applicant:



APPLICATION:

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

ON BEHALF OF APPLICANT:

Self-represented

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the Vermont Service Center. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. All motions must be submitted to the Vermont Service Center by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

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 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, the applicant asserts that during the initial registration period he was a dependent under his mother's asylum application.

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 Secretary 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 TPS 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 9, 2013, upon the applicant's re-registration during the requisite period.

The record reveals that the applicant filed his initial TPS application on September 7, 2010.

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 U.S. Citizenship and Immigration Services (USCIS). 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 June 22, 2011, 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 a certified court judgment regarding his arrest on May 1, 2005, and evidence establishing his continuous residence and continuous physical presence in the United States. The applicant, in response, provided the court disposition and evidence to establish his qualifying residence and physical presence in the United States. The applicant also submitted copies of Forms I-797, Notice of Action, dated November 30, 1998, and November 14, 2002, pertaining to his Forms I-765, Application for Employment Authorization, and a Form I-797 dated April 22, 2005, pertaining to a Form I-130, Immigrant Petition for Relative, filed on his behalf.

The director noted that the USCIS record reflects that the applicant was a dependent on a principal asylum application and that application was withdrawn on May 17, 2002. The director determined that the applicant had failed to file a TPS application within 60 days after the withdrawal of the principal asylum application. The director concluded that the applicant had failed to establish he was eligible for late registration and denied the application on September 21, 2011.

In *Matter of N-C-M-*, 25 I&N Dec. 535 (BIA 2011), the Board of Immigration Appeals (BIA) held that the TPS regulations require that a late registrant be a “child” only “at the time of the initial registration period,” not at the time when the application for late initial registration is filed. It was also held that the regulation at 8 C.F.R. § 244.2(g) does not apply to a child who seeks late initial registration for TPS benefits.

In view of the BIA’s decision, the applicant was not required to file an application for late registration within a 60-day period immediately following the withdrawal of his mother’s asylum application on May 17, 2002.

Nevertheless, in order to qualify for late registration, the applicant must be a child of an alien currently eligible to be a TPS registrant. Although the applicant has established that during the initial registration period, he was a child and a derivative of his mother’s asylum application, he has not established that his mother is currently eligible to be a TPS registrant. Therefore, the finding of the director that the applicant had failed to establish eligibility for late registration 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.