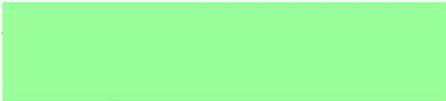




U.S. Citizenship  
and Immigration  
Services

(b)(6)



DATE: **MAR 04 2013**

Office: VERMONT SERVICE CENTER

FILE:

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 AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of \$630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Ron Rosenberg  
Acting 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, the applicant asserts that the director's decision is in error. The applicant states that a previous filed TPS application "should count for an evidence of attempting to register for a benefit that would lead to a qualifying condition and I have evidence that I attempted to register for the first TPS benefit right from the beginning even when I was still under the Asylum protection."

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;

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- (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 El 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.

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. If the qualifying condition or application has expired or been terminated, the individual must file within a 60-day period immediately following the expiration or termination of the qualifying condition in order to be considered for the late initial registration. 8 C.F.R. § 244.2(g).

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).

The AAO conducts appellate review on a *de novo* basis. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004).

The record reflects that the applicant was a derivative of a Form I-589, Application for Asylum and Withholding of Removal, filed on behalf of his mother on February 6, 1996. On January 20, 1999, a notice was issued by the Director, Houston Asylum Office, advising the applicant's mother that the applicant was no longer eligible to be included as a derivative on her asylum application as he had attained the age of 21.<sup>1</sup> The notice further advised the applicant's mother that in order for the applicant to pursue asylum in the United States it was necessary for him to file a separate Form I-589. USCIS record does not reflect that the applicant filed a Form I-589.

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<sup>1</sup> The notice was also sent to the address of record for counsel of the applicant's mother.

Although the applicant was not eligible, he continued to receive employment authorization through August 24, 2002 under the category (C08) designated for a pending asylum application.

On June 14, 2002, the applicant filed a Form I-765, Application for Employment Authorization, and indicated that he was eligible under category A-12 (designated for individuals who have been granted TPS). On September 5, 2002, a notice addressed to the applicant was issued by the Houston Asylum Office informing him that his Form I-589 was administratively terminated. On December 31, 2002 and January 25, 2003, notices were issued requesting the applicant to submit evidence of a properly filed TPS application during the registration period. The applicant did not provide any evidence that a TPS application had been filed during the registration period of March 9, 2001, through September 9, 2002.

The record reflects that the applicant filed his initial TPS application [REDACTED] on September 18, 2003 and indicated that he was re-registering for TPS. On October 19, 2004, the Director, Texas Service Center, denied the application as the applicant has not established eligibility for late registration. The applicant filed an appeal from the denial of that application. Upon review of the record of proceeding, the AAO concurred with the director's decision and dismissed the appeal on June 5, 2006.

The applicant filed the current TPS application on March 1, 2012. On August 7, 2012, the director denied the application because the applicant had not provided any new and compelling evidence that overcame the reason(s) for denying the initial TPS application.

The applicant's assertion that he attempted to register for the initial TPS benefit is not supported by the record. Filing only a Form I-765 under the category A-12 does not establish registration for TPS.<sup>2</sup> The record indicates that, in his affidavit dated November 1, 2004, the applicant acknowledged that he did not file a Form I-821 at the time he submitted the Form I-765 as he indicated "I was under a good faith belief that my application for an extension of my work permit was made on the basis of my mother's application." As noted above, the applicant's mother was informed on January 20, 1999, that the applicant was no longer eligible for derivative status on her Form I-589. Furthermore, the notice of September 5, 2002, which informed the applicant that he was no longer eligible to receive benefits under his mother's Form I-589 was sent to the address of record which he maintains on appeal. The applicant, however, did not file a TPS application until September 18, 2003.

In conclusion, the applicant did not file an initial TPS application during the registration period of March 9, 2001 through September 9, 2002. The applicant has not met any of the criteria for late registration described in 8 C.F.R. § 244.2(f)(2). The applicant has not established that he has met

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<sup>2</sup> Pursuant to 8 C.F.R. § 244.1(3), *register* means to properly file, with the director, a completed application with proper fee for TPS during the registration period designated under section 244(b) of the Act,

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the criteria for late registration under 8 C.F.R. § 244.2 (g). 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.