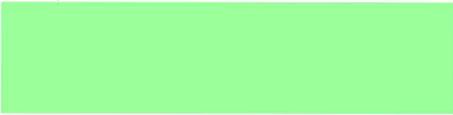




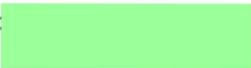
U.S. Citizenship
and Immigration
Services

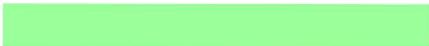
(b)(6)



DATE: **MAR 26 2013**

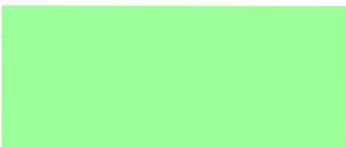
Office: VERMONT SERVICE CENTER

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:

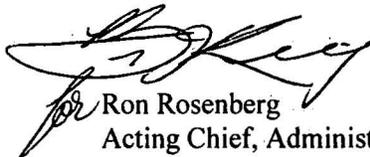


INSTRUCTIONS:

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 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 for the applicant requests discretion from U.S. Citizenship and Immigration Services as to late registration. Counsel submits a brief.

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

(b)(6)

- (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 record reflects that the applicant filed his initial TPS application on March 22, 2012.

On June 29, 2012, 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, submitted a statement indicating that from 2000 through 2002, he was employed by [REDACTED] and was told by his former manager that the company was going to sponsor him and five other individuals "so that we could apply with the United States Citizenship and Immigration Services for a residence status (residence card)." The applicant indicated that he was informed by the attorney (of his former employer) that "my case was approved by the Department of Labor and that supposedly they had a letter of approval but a copy of this letter was never given to me." The applicant stated that he did not apply for TPS during the initial registration period because he had applied for legal residence status through his employer at the time. The applicant submitted documentation indicating that attempts had been made to obtain records of his approved application from the Department of Labor and the Virginia Employment Commission along with their responses that there were no records

regarding his application. The applicant also submitted letters written in the Spanish language with uncertified English translations¹.

The director, in his decision, noted that the uncertified English translation letter(s): (a) related to a work contract approved by the Department of Labor (DOL); and (b) was from the attorney of the applicant's former employer, which indicated that the applicant had an approved application with the DOL that expired on December 30, 2007 and that the applicant was requested to make an appointment to file the next step or he would lose his case. The director determined that: (1) the letter from the attorney did not state the type of application that had been filed; (2) the applicant did not submit evidence to show that he had responded to the attorney's request; and (3) none of the evidence submitted indicated the type of application the applicant had, the date of approval or if the applicant had filed for TPS within 60 days following the expiration of the application. Based on these facts, the director determined that there was not sufficient evidence to establish that the applicant was in a valid nonimmigrant status during the initial registration period or that he had applied for TPS within 60 days of the termination of that status. The director concluded that the applicant had failed to establish he was eligible for late registration and denied the application on October 2, 2012.

On appeal, counsel states, in pertinent part:

It is our understanding that prior counsel submitted paperwork to the DOL that would grant my client the potential for LPR under the 2001 245i provisions. Despite exhaustive efforts we have not yet been able to obtain from DOL a copy of the approval notice that would permit our client to apply for LPR and claim the benefit of the 245i status.

In our discussion with the client, we indicated that while we shall continue to be diligent in seeking to obtain the prior DOL matters that would allow us to apply for LPR, he should be eligible to obtain TPS status and employment authorization permit as he also meets the standard for this.

Counsel's statements, on appeal, have been noted. The provisions for late registration, however, were created in order to ensure that TPS benefits were made available to aliens who did not register during the initial registration period (March 9, 2001, through September 9, 2002) for the various circumstances specifically identified in the regulations. The assertions of counsel do not constitute evidence. *Matter of Laureano*, 19 I&N Dec. 1, 3 (BIA 1983); *Matter of Obaighena*, 19 I&N Dec. 533, 534 (BIA 1988); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980).

¹ Any document containing foreign language submitted to USCIS shall be accompanied by a full English language translation which the translator has certified as complete and accurate, and by the translator's certification that he or she is competent to translate from the foreign language into English. 8 C.F.R. § 103.2(b)(3).

(b)(6)

Page 5

Without credible evidence indicating that the applicant met any of the criteria described in 8 C.F.R. § 244.2(f)(2), the application cannot be approved for late registration under 8 C.F.R. § 244.2(f)(2) or (g). Consequently, the director's conclusion that the applicant had failed to establish his 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.