



U.S. Citizenship  
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FILE:

[WAC 05 209 70421]

Office: CALIFORNIA SERVICE CENTER

Date: APR 01 2009

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.

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, as required by 8 C.F.R. 103.5(a)(1)(i).

John F. Grissom  
Acting 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 during the initial registration period on June 29, 2001, under receipt number SRC 01 271 59332. The Director, Texas Service Center, denied that application for abandonment on September 11, 2003, because the applicant failed to respond to a request for a photo identification document. 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 February 25, 2005, and indicated that he was submitting an initial TPS application.

The director treated the application as a re-registration and denied the application because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS. However, the applicant indicated on the TPS application that he was filing a "first application" for TPS.

On appeal, the applicant states that he submitted a late initial registration based on his father's TPS-approved application. The applicant also submits evidence of his identity and nationality and submits evidence in an attempt to establish continuous residence and continuous physical presence in the United States during the qualifying period.

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 U. S. Citizenship and Immigration Services (USCIS) on February 25, 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 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 appeal, the applicant states that he submitted a late initial registration application based on his father's status as a TPS recipient. The applicant also requests that his case be reopened. The applicant submits a copy of his passport and 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. The applicant has failed to provide any evidence to support his claim that his father is a TPS-eligible alien. It is noted that the applicant's mother did apply for TPS. However, the applicant's mother's application, under alien registration number (A number) A74 620 791, was also denied.

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

It is also noted that while regulations may allow children of TPS beneficiaries to file their applications after the initial registration period had closed; these regulations do not relax the requirements for eligibility for TPS. The child is still required to meet the residence and physical presence requirements as provided in 8 C.F.R. §§ 244.2(b) and (c). On appeal, the applicant submits a copy of a junior achievement certificate dated in 1998 and a 1999-2000 elementary school report card for grade 2. Both of these documents predate the requisite period for continuous residence and continuous physical presence in the United States. It is noted that the applicant did not submit report cards or any other school records for any subsequent periods, even though he was of school age and would have been required to attend school. The applicant also provided copies of his parents'

amended U.S. Individual Income Tax Returns for the years 1999 through 2005. However, the amended tax returns for the years 1999 through 2001 are dated May 22, 2003; therefore, they do not establish the applicant's presence in the United States during the requisite period. The applicant has provided insufficient evidence to establish his qualifying continuous residence since February 13, 2001 and his continuous physical presence from March 9, 2001 to the filing date of the TPS application. Consequently, the application will also be denied for these reasons.

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.