



U.S. Department of Justice
Immigration and Naturalization Service



OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536

E



FILE [REDACTED]

Date: MAY 8 2000

IN RE: Applicant: [REDACTED]

APPLICATION: [REDACTED]

IN BEHALF OF APPLICANT: [REDACTED]

Public Copy

INSTRUCTIONS: Identifying and marking to prevent clearly unwarranted invasion of personal privacy

This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Terrance M. O'Reilly
Terrance M. O'Reilly, Director
Administrative Appeals Office

MAY 08 2000 - 0-8011

DISCUSSION: The application was denied by the Director, Texas Service Center and is now before the Associate Commissioner for Examinations on appeal. The appeal will be dismissed.

The applicant is a native and citizen of El Salvador. The director denied the application for Temporary Protected Status (TPS) under § 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. 1254a, because the applicant failed to establish he is a national of Nicaragua or Honduras.

On appeal, the applicant states that he has been in the United States since October 1988 and needs to get documentation to legalize his status.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. 244, provide that an applicant who is a national of El Salvador is eligible for temporary protected status only if such alien establishes that he or she:

- a. Is a national of a state designated under § 244(b) of the Act;
- b. Has been continuously physically present in the United States since January 1, 1991;
- c. Has continuously resided in the United States since such date;
- d. Is admissible as an immigrant;
- e. Is not ineligible under 8 C.F.R. 240.4; and
- f. Pursuant to § 303(b)(1) of IMMACT 90, has timely registered for such status between January 2, 1991, and June 30, 1992.

The term continuously physically present, as used in 8 C.F.R. 244.1, means actual physical presence in the United States since January 1, 1991. Any departure, not authorized by the Service, including any brief, casual, and innocent departure, shall be deemed to break an alien's continuous physical presence.

Although the record reflects that the applicant has been in the United States since 1988, he failed to register for TPS during the designated enrollment period from January 1, 1991 to June 30, 1992. The applicant filed the present application on July 6, 1999 and at a time when El Salvador is no longer a designated nation.

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 the Service. 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).

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 § 244 of the Act. The applicant has failed to meet this burden.

ORDER: The appeal is dismissed. This decision constitutes a final notice of ineligibility.