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U.S. Citizenship  
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FILE: [REDACTED] OFFICE: CALIFORNIA SERVICE CENTER DATE: AUG 01 2006  
[WAC 05 140 76998]

IN RE: Applicant: [REDACTED]

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 office that originally decided your case. Any further inquiry must be made to that office.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

for Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, California Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The applicant is a native and 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 September 9, 2002, under Citizenship and Immigration Services (CIS) receipt number SRC 03 027 56233. The Director, Texas Service Center (TSC), denied that application due to abandonment on December 3, 2003, because the applicant had failed to respond to a request to submit acceptable evidence of photo identification to establish identity. The applicant did not file a motion to reopen within 30 days from the date of the denial.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on February 17, 2005, and indicated that he was re-registering for TPS.

The Director, California Service Center, denied the re-registration application because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS.

On appeal, the applicant asserts that documents requested were not submitted since he never received the director's request, that his address was never incorrect, and that he believes the United States Post Office tried incorrectly to deliver his mail. He resubmits a copy of his El Salvadoran Identity Card (Cedula).

A review of the record of proceeding indicates that in a notice of intent to deny (NOID) dated February 6, 2003, the applicant was requested to submit: (1) evidence to establish that he had continuously resided in the United States since February 13, 2001; (2) evidence to establish that he had been continuously physically present since March 9, 2001, to the date of filing the application; and (3) a recent photo identification (a photocopy of the biographical page of his passport, or a state or national I.D. card). The NOID was mailed to the applicant's address at that [REDACTED]. There was no evidence that the applicant responded to the NOID. The applicant was again requested on June 6, 2003, to submit "photo identification (e.g. State driver's licenses, State Identification card, passport)." The request notice was mailed to the applicant at his [REDACTED]. The applicant responded, on July 14, 2003, by submitting an El Salvadoran Identity Card (Cedula) issued in El Salvador on September 20, 1999. On August 1, 2003, a Notice of Request for Evidence was issued advising the applicant that a response to the request for evidence was received; however, "the photo identification that you have submitted is too dark to decipher. Please submit an alternate form of identification, such as a State Identification card, passport, State Driver License, etc. If no other option is available, please submit the original of the document you mailed. It will be returned to you via certified mail for your safekeeping." Again, that notice was mailed to the applicant's address (26741 SW 145 Ave.). The applicant failed to respond; therefore, the director denied the application based on abandonment on December 3, 2003. That notice was also mailed to the applicant's most recent address provided by the applicant at that time [REDACTED]. There is no evidence in the record that the applicant had advised CIS of a change of his address, nor is there evidence that any of the notices were returned to CIS as undeliverable.

If the applicant is filing an application as a re-registration, a previous grant of TPS must have been afforded the applicant, as only those individuals who are granted TPS must register annually. In addition, the applicant must continue to maintain the conditions of eligibility. 8 C.F.R. § 244.17.

In this case, the applicant has not previously been granted TPS. Therefore, he is not eligible to re-register for TPS. Consequently, the director's decision to deny the application will be affirmed.

It is noted that the director's decision does not explore the possibility that the applicant was attempting to file a late initial application for TPS instead of an annual re-registration.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an alien who is a national of a foreign state designated by the Attorney General is eligible for temporary protected status only if such alien establishes that he or she:

- (a) Is a national, as defined in section 101(a)(21) of the Act, of a foreign 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 Attorney General may designate;
- (d) Is admissible as an immigrant except as provided under § 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 condition 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 CIS on February 17, 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 CIS. 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 applicant has failed to provide any evidence to establish that this application should be accepted as a late initial registration under 8 C.F.R. § 244.2(f)(2). Therefore, the application also must be denied for this reason.

The applicant, on appeal, furnished a legible copy of his El Salvadoran Identity Card. However, it is noted that evidence furnished by the applicant to establish his claim of residence and physical presence in the United States was dated only from December 2000 through July 2001. No evidence was furnished to establish continuous physical presence from July 2001 to the date of filing the TPS application on September 9, 2002. Accordingly, the applicant has failed to establish that he has met the criteria for continuous residence in the United States since February 13, 2001, and continuous physical presence since March 9, 2001, as described in 8 C.F.R. § 244.2(b) and (c). Therefore, the application will also be denied for this reason.

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.