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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
[WAC 05 228 76091]

Office: California Service Center

Date: **AUG 14 2006**

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:

[REDACTED]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the California Service Center. 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 initial application for Temporary Protected Status was denied by the Director, Texas Service Center. The applicant filed three motions to reopen, which were denied by the Director, Texas Service Center. The current 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 stated 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 record reveals that the applicant filed a TPS application on April 3, 2001, under receipt number SRC 01 164 64942. On July 25, 2002, the applicant was requested to submit a copy of a photo identification. The record does not contain a timely response from the applicant; therefore, the Texas Service Center director denied the application on August 27, 2002, after determining that the applicant had abandoned his application.

On February 13, 2003, the applicant filed a motion to reopen the August 27, 2002 decision. The Texas Service Center denied the motion to reopen on April 10, 2003, because the applicant failed to allege new facts that would establish his eligibility for TPS. On November 5, 2003, the applicant filed a motion to reopen the April 10, 2003 denial of his initial motion to reopen. The Texas Service Center denied the motion on December 31, 2003, because the motion to reopen was untimely. On February 9, 2004, the applicant, through counsel, filed a motion to reopen the December 31, 2003 denial of his second motion to reopen. The Texas Service Center denied the motion on March 4, 2004, because the motion was untimely and the applicant failed to submit any evidence supporting his claims.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on May 16, 2005, and indicated that he was re-registering for TPS.

On January 16, 2006, the California Service Center director 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.

In his appeal, the applicant claims that he has resided in the United States since October 1999 and he submits his **passport to demonstrate that he is a national of El Salvador.**

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 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 Salvador was from March 9, 2001 to September 9, 2002. The record reveals that the applicant filed the current application with Citizenship and Immigration Services (CIS) on May 16, 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.

It is noted that the applicant's Federal Bureau of Investigation (FBI) results show that the applicant was arrested on October 22, 2004, for prostitution. Since the actual court disposition for this offense was not provided, the outcome of this charge is unknown. CIS must address this arrest and any convictions in any future proceedings.

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.