



U.S. Citizenship
and Immigration
Services

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FILE:



Office: California Service Center

Date: **DEC 27 2006**

[WAC 05 225 93888]

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


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 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 an initial TPS application on February 14, 2002, under CIS receipt number EAC 02 121 51919. The Eastern Service Center director denied the application, on August 25, 2004, because the applicant failed to respond, within 90 days, to a request for evidence dated May 11, 2004, to submit evidence to establish his continuous residence in the United States since February 13, 2001, and his continuous physical presence from March 9, 2001, to the date of filing his TPS application. The director, therefore, **considered that application abandoned. 8 C.F.R. § 103.2(b)(13).** A denial due to abandonment may not be appealed; however, an applicant may file a motion to reopen under 8 C.F.R. § 103.5 within 30 days of the denial decision. The record does not reflect that the applicant filed a motion to reopen.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on May 13, 2005, under CIS receipt number WAC 05 225 93888, and indicated that he was re-registering for TPS.

The director denied that application on October 15, 2005, because the applicant's prior TPS application had been denied as the applicant did not establish prima facie eligibility for TPS.

The record reveals that with his initial TPS application, the applicant submitted an El Salvador birth certificate in Spanish, with an English translation, and three AB Construction check stubs issued in December 2000. With his renewal TPS application, the applicant submitted an Employment Authorization Card that expired September 9, 2002; a Social Security card; and a Virginia identification card.

On appeal, the applicant states that he has been living in the United States since June 2000 without any criminal or legal problems. The applicant does not submit any additional evidence on appeal.

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.

Beyond the decision of the director, the applicant has not submitted sufficient evidence to establish his nationality and identity. The applicant has furnished a copy of a birth certificate and English translation; however, he has not submitted a national identity document from his country bearing a photograph and or/fingerprint. The birth certificate alone is insufficient to establish the applicant's identity and nationality under the provision of 8 C.F.R. § 244.9(a)(1). Therefore, the application must 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.