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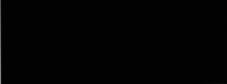


**U.S. Citizenship  
and Immigration  
Services**

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FILE:



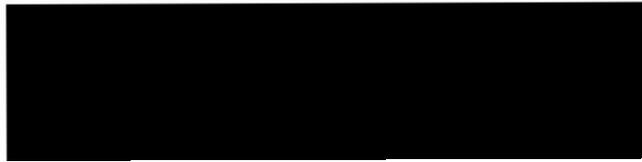
Office: California Service Center

Date: **DEC 27 2006**

[WAC 05 224 87054]

IN RE:

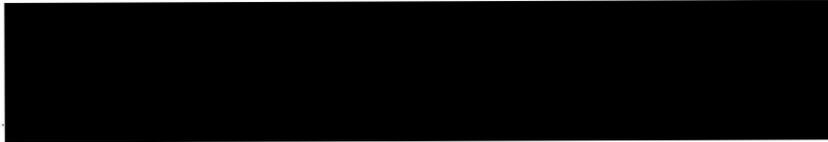
Applicant:



APPLICATION:

Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT:



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.

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 March 20, 2001, under CIS receipt number SRC 01 160 58225. The Texas Service Center director denied the application, on July 21, 2003, because the applicant failed to respond within 30 days, to a January 25, 2005 request for evidence to establish eligibility for TPS. 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 reflects that the applicant filed a motion to reopen on October 29, 2003. Although the applicant indicated in his motion that he is willing to submit all evidence the director requested, the record does not reflect that the applicant submitted any evidence with the motion to reopen. On December 19, 2003, the director denied the motion as untimely, noting that the motion was received over 3 months after the time for filing the motion had expired.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on May 12, 2005, under CIS receipt number WAC 05 224 87054, and indicated that he was re-registering for TPS.

The director denied that application on August 16, 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 English translation of a birth certificate (without the birth certificate in Spanish); 6 receipts for payments made by the applicant; an invoice, dated December 28, 2000, from the City of Houston; 3 Envios Urgentes money transfer receipts; a Texas duplicate title, issued March 21, 2000; and a Texas driver's license, with an unclear expiration date.

With his re-registration application, the applicant submitted an El Salvador birth certificate in Spanish, with an English translation; an Employment Authorization Card which expired September 9, 2003; a Social Security card; a CIS notice of action, dated November 4, 2003; and a return copy of a Notice of Intent to Deny, dated January 25, 2003.

On appeal, counsel states that the applicant has a pending motion to reopen, filed October 29, 2003, and requests that the denial decision, issued August 6, 2005, be vacated, and his case placed on hold until the Motion to Reopen is adjudicated. With the appeal, counsel submits a CIS receipt, dated October 30, 2003, acknowledging receipt of the motion to reopen, and a case status search pertaining to the motion to reopen. However, as discussed above, on December 19, 2003, the director denied that motion to reopen. The notice was mailed to the new address the applicant provided with the motion to reopen. Counsel 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.