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FILE:



Office: CALIFORNIA SERVICE CENTER

DEC 29 2006
Date:

[WAC 05 216 85601]

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 (AAO) on appeal. The appeal will be dismissed.

The applicant claims 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 during the initial registration period under Citizenship and Immigration Services (CIS) receipt number SRC 01 176 54768. The director denied that application on July 15, 2002, because the applicant failed to submit documents in response to a Request for Additional Information (RFI) and, therefore, had abandoned his application. On September 19, 2003, the applicant filed a Motion to Reopen the denial decision. The director granted the motion on January 9, 2004 and issued another RFI. After the applicant failed to respond to the RFI, the director issued a Notice of Intent to Deny on April 26, 2004. The director denied the application on June 4, 2004 because the applicant failed to submit documents in response to the notice and, therefore, had abandoned his application. On September 8, 2005, the applicant filed a Motion to Reopen the denial decision and submitted additional evidence that he claimed shows he was a resident of the United States on or before February 13, 2001. The director denied the motion on October 13, 2005 because the additional evidence failed to overcome the reasons for the initial denial.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on May 4, 2005, and indicated that he was re-registering for TPS.

The 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.

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.

There is no indication that the applicant was attempting to file a late initial application for TPS instead of an annual re-registration. Moreover, there is no evidence in the file to suggest that the applicant is eligible for late registration for TPS under 8 C.F.R. § 244.2(f)(2).

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.