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FILE: [REDACTED]  
[WAC 05 221 73579]

Office: CALIFORNIA SERVICE CENTER

Date: OCT 16 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: 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 (AAO) on appeal. The appeal will be dismissed.

The applicant is 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 on October 19, 2001, under Citizenship and Immigration Services (CIS) receipt number SRC 02 031 57585. The Director, Texas Service Center, denied that application on December 15, 2004, because the applicant failed to submit requested court documentation relating to his criminal record. There is nothing in the record to indicate that the applicant appealed the director's decision.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on May 9, 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.

On appeal, the applicant states that he has sufficient evidence to prove his presence in the United States. The applicant also submits evidence in an attempt to establish continuous residence and continuous physical presence during the qualifying period.

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 Salvadorans was from March 9, 2001 through September 9, 2002. The record reveals that the applicant filed the current application with CIS on May 9, 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).

On appeal, the applicant states that he has sufficient evidence to prove his presence in the United States. The applicant also provides additional evidence in an attempt to establish his qualifying continuous residence and continuous physical presence in the United States. However, this does not mitigate the applicant's failure to file his TPS application within the initial registration period.

The applicant, however, 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.

Beyond the decision of the director, it is noted that the applicant has provided insufficient evidence to establish his qualifying continuous residence since February 13, 2001 and continuous physical presence from March 9, 2001 to the filing date of the TPS application. Therefore, the application must be denied for these reasons as well.

Beyond the director's decision, it is noted that a Federal Bureau of Investigation Fingerprint Report indicates:

1. The applicant was arrested on June 14, 1997, by the Metro-Dade, Florida Police Department for "Disorderly Conduct."

2. The applicant was arrested on September 30, 2000, by the Metro-Dade, Florida Police Department for "Drink in Public."
3. The applicant was arrested on September 29, 2002, by the Metro-Dade, Florida Police Department for "Aggrav Battery."
4. The applicant was arrested on December 12, 2002, by the Miami Beach, Florida Police Department for "Drink In Public", "DUI Accompanied by Minor in Vehicle", and "Carrying Concealed Weapon."
5. The applicant was arrested on December 6, 2003, by the Metro-Dade, Florida Police Department for "Carrying Concealed Weapon."
6. The applicant was arrested on March 16, 2004, by the Miami, Florida Police Department for "Nonmoving Traffic Viol."
7. The applicant was arrested by the Broward County, Florida Sheriff's Office for "Fail to Reg Vehicle", "Attach Registration License Plat not Assigned", "Cocaine Possession."

The final dispositions for these arrests are not in the record. CIS must address these arrests 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.