

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

PUBLIC COPY

U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529



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

M

FILE:

[WAC 215 72761]

Office: CALIFORNIA SERVICE CENTER

Date: **OCT 23 2006**

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 California Service Center. 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 a native and 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 Form I-821, Application for Temporary Protected Status, during the initial registration period under Citizenship and Immigration Services (CIS) receipt number SRC 01 250 54797. The director denied that application on June 12, 2003, after determining that the applicant had abandoned his application by failing to respond to a request for the final court disposition for his November 25, 2000 arrest for driving while impaired in Mecklenburg County, North Carolina.

Since the application was denied due to abandonment, there was no appeal available; however, the applicant could have filed a request for a motion to reopen within 30 days from the date of the denial. The applicant did not file a motion to reopen during the requisite timeframe.

The applicant filed the current Form I-821, on May 3, 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 an alien is filing a re-registration application, 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.

The applicant's Federal Bureau of Investigation fingerprint results report shows that on November 25, 2000, in Charlotte, North Carolina, he was arrested for driving while impaired, a misdemeanor. On August 26, 2002, in Charlotte, North Carolina, he was arrested for "COMMUNICATING THREATS MISDEMEANOR," and that this charge was "dismissed without leave" by the District Attorney. Final court dispositions of neither of these arrests are included in the record of proceeding.

It is noted that the applicant submitted a criminal record search for himself from a Deputy Clerk of Superior Court of the General Court of Justice for Mecklenburg County of the State of North Carolina. Although this search addresses the communicating threats charge listed above, the criminal record search indicates on it that it is not valid without the Clerk of Superior Court's raised seal on each page. The document does not carry that seal on either page. Therefore, it does not constitute a final court disposition for his second misdemeanor arrest.

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.

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.