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FILE:

[REDACTED]

Office: CALIFORNIA SERVICE CENTER

Date:

OCT 30 2006

[WAC 05 200 73293]

IN RE:

Applicant:

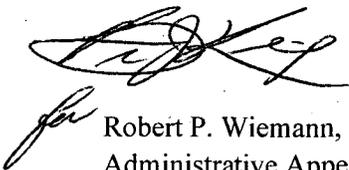
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APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

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.



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 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 applicant filed an initial application for TPS after the initial period under receipt number SRC 01 159 51203. The District Director, Charlotte, North Carolina, denied that application on November 6, 2002, after determining that the applicant had failed to respond to a request for evidence.

The applicant did not appeal the district director's decision.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on April 16, 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 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 applicant's Federal Bureau of Investigation (FBI) fingerprint results report shows that on March 20, 2005, in Charlotte, North Carolina, he was arrested for: (1) driving while impaired; and (2) driving with no operator's license. However, the final court dispositions of these arrests are not included in the record of proceeding.

The applicant's FBI report also shows that he was arrested on March 19, 1998, under the name Isidro Delgado-Agueta by a Border Patrol officer in Brownsville, Texas. On that date, he claimed to have been born in El Salvador on August 15, 1975. He did not appear at his deportation hearing on May 14, 1998, and was ordered to be removed to El Salvador "in absentia" by an Immigration Judge in Bloomington, Minnesota. It is noted that the applicant submitted his first Form I-821 on August 30, 2001. On that application he stated that his name was Isidro Garcia and that his date of birth was August 26, 1975. Additionally, he claimed that his date of entry into the United States was December 28, 1999. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988).

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.