U.S. Department of Homeland Security
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U.S. Citizenship and Immigration Services

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[redacted]

FILE: [redacted] OFFICE: CALIFORNIA SERVICE CENTER DATE: SEP 28 2006
[WAC 05 131 73187]

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 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.

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. 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 record reveals that the applicant filed an initial TPS application on November 5, 2002, under Citizenship and Immigration Services (CIS) receipt number SRC 03 035 54190. The Director, Texas Service Center (TSC), denied that application on March 8, 2003, because the applicant had failed to respond to a request to submit evidence to establish: (1) continuous residence in the United States since February 13, 2001; (2) continuous physical presence from March 9, 2001, to the date of filing the application; and (3) that he was eligible for late initial registration. On April 23, 2003, the applicant filed an appeal from the denial decision. The Director, TSC, treated the appeal as a motion to reopen and reconsider, and subsequently denied the motion on August 8, 2003, because the motion was filed over the prescribed period of 33 days and the applicant has not demonstrated that the delay was reasonable and was beyond his control. 8 C.F.R. § 103.5(a)(1)(i).

The applicant filed the current Form I-821, Application for Temporary Protected Status, on February 8, 2005, and indicated that he was re-registering for TPS.

The director denied the re-registration application on August 16, 2005, 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 requests reconsideration of his application because he has been a law-abiding person, he has followed all instructions and directions given to him by CIS, and that he has attempted to gather all required and requested information. He submits additional evidence in an attempt to establish residence and physical presence in the United States.

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.

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.