

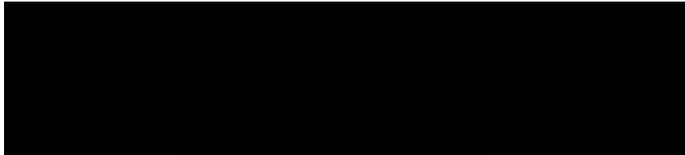
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U.S. Department of Homeland Security  
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U.S. Citizenship  
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FILE:



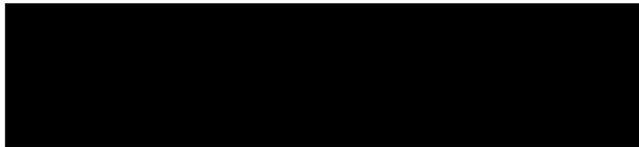
Office: CALIFORNIA SERVICE CENTER

Date: SEP 08 2006

[WAC 05 225 73855]

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.

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 stated to be 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 WAC 01 241 55198. The director denied that application on January 4, 2005, after determining the applicant had not appeared for fingerprinting. The applicant filed a motion to reopen on May 3, 2004, and stated that he had not received a request to appear for fingerprinting. After he was fingerprinted, the director sent the applicant a Form I-797, Notice of Action, dated August 23, 2004, requesting that he submit police clearance and court dispositions for his arrest(s). On November 12, 2004, the applicant, through the attorney that was representing him in "the criminal case [REDACTED]" requested an extension of time in order to provide the director with the required information. Counsel stated that the applicant was scheduled for trial on the charges at the end of November 2004, after which he would provide final court disposition. On January 4, 2005, the director again denied the application after determining that the applicant had abandoned his application by failing to provide final court disposition(s) for his arrest(s).

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 13, 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.

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 applicant's Federal Bureau of Investigation fingerprint results report shows that on April 30, 2004, he was arrested by the Police Department of Los Angeles and charged with one count of battery against the police.

On appeal, the applicant submits a summary dated January 21, 2005, of his court case No. [REDACTED] in the Superior Court of California for the County of Los Angeles. The summary shows that he was convicted of "148(A) PC MISD – RESIST ARREST/PUBLIC OFFICER," a misdemeanor, and of "242-243(B) PC MISD – BATTERY," a misdemeanor, on December 16, 2004. The applicant is ineligible for TPS due to his record of two

misdemeanor convictions. Section 244(c)(2)(B)(i) of the Act and 8 C.F.R. § 244.4(a). Consequently, the director's decision to deny the application for this reason is affirmed for this additional reason.

Additionally, the applicant has provided insufficient evidence to establish that he is a national or citizen of El Salvador. He has provided a copy of his birth certificate along with an English translation. However, a birth certificate alone does not establish nationality. The record does not contain any photo identification such as a passport or national identity document. 8 C.F.R. § 244.2(a)(1). Therefore the application shall be denied for this additional reason.

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.