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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 26 2006**  
[WAC 05 113 70384]

IN RE: Applicant: [Redacted]

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

ON BEHALF OF PETITIONER:

[Redacted]

**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 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 on November 20, 2001 under CIS receipt number SRC-02-054-54264. The director denied that application on February 28, 2003, because the applicant failed to respond to a request for evidence to establish his eligibility for TPS. The director specifically requested that the applicant submit: 1) evidence of identity and nationality; 2) evidence to show that he resided in the United States prior to February 13, 2001; and 3) evidence to show that he was physically present in the United States since March 9, 2001. The director noted that as of February 28, 2003, the applicant failed to submit the requested evidence. The director, therefore, denied the application for abandonment. 8 C.F.R. § 103.2(b)(13). A denial due to abandonment may not be appealed; however, an applicant may file a motion to reopen under 8 C.F.R. § 103.5 within 30 days of the denial decision. The record does not reflect that the applicant filed a motion to reopen within the requisite period.

The record reflects that on March 6, 2003, the applicant submitted: 1) a photocopy of an El Salvador national identification card, which contains a photograph of the applicant, dated September 5, 2001; 2) a copy of his Social Security card; 3) a copy of his EAD card issued on January 3, 2003; and 4) a letter from an associate pastor, dated November 7, 2001, attesting to the applicant's church membership from October 2000. The AAO notes that the applicant did not provide any reliable contemporary evidence relating to his continuous residence and continuous physical presence. The applicant's documents are inconsistent and cast doubt on whether the applicant lived in the United States since prior to February 13, 2001, and whether he was physically present in the United States since March 9, 2001. Although the letter from the pastor states that the applicant has been an active member in the church's community activities, from October 2000, his national identification card is dated September 5, 2001. Yet, the applicant claims to have lived in the United States since October 2000. Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. 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 applicant has failed to submit any objective evidence to explain or justify the inconsistency within his documents. Therefore, the reliability of the remaining evidence offered by the applicant is suspect and it must be concluded that the applicant has failed to establish that he resided in the United States prior to February 13, 2001, and that he was physically present in the United States since March 2001.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on January 21, 2005, and indicated that was his re-registration application. The director denied that application on January 6, 2006, because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for TPS.

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.

On appeal, counsel for the applicant states only that the denial is improper because the applicant's original TPS application was filed before September 9, 2002. With the appeal, counsel submitted a photocopy of the applicant's passport, and a copy of the same letter from the applicant's associate pastor, dated November 7, 2001, as evidence of the applicant's eligibility for TPS.

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 to September 9, 2002. The record reveals that the applicant filed the current application with Citizenship and Immigration Services (CIS) on January 1, 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 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).

The applicant 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.

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.