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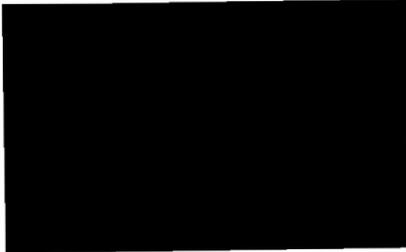
FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER
[WAC 05 337 70187]

Date:

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:



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.

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 (AAO) 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 during the initial registration period on April 23, 2001 under Citizenship and Immigration Services (CIS) receipt number WAC 01 187 50065. The Director, Nebraska Service Center, denied that application on March 22, 2004, because the applicant failed to establish his continuous residence and continuous physical presence in the United States during the qualifying period. The applicant submitted a subsequent TPS application during the initial registration period on September 9, 2002 under Citizenship and Immigration Services (CIS) receipt number LIN 02 290 50288. The Director, Nebraska Service Center, denied that application on March 22, 2004, because the applicant failed to establish his continuous residence and continuous physical presence in the United States during the qualifying period. On April 8, 2004, the applicant filed an appeal from the denial decisions. On August 3, 2005, the Director (now Chief), AAO, dismissed that appeal.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on September 2, 2005, and indicated that he was submitting his first TPS application.

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.

On appeal, counsel for the applicant states that the applicant filed and qualified for TPS since the initial TPS period. The applicant also submits evidence in an attempt to establish continuous residence in an attempt to establish continuous residence and continuous physical presence in the United States during the qualifying period.

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.

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 through September 9, 2002. The record reveals that the applicant filed the current application with CIS on September 2, 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 or she 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).

On appeal, counsel for the applicant states that the applicant filed and qualified for TPS since the initial registration period and was granted work authorization until March 9, 2005. According to counsel, the applicant never received the denial decision and his TPS approval could not be terminated until his employment authorization expired. The applicant also submits additional evidence in an attempt to establish his qualifying continuous residence and continuous physical presence in the United States. However, this does not mitigate the applicant's failure to file his TPS application within the initial registration period.

The denial decision was sent to the applicant's address of record. In fact, it was sent to the same address as the previous request for additional evidence to which the applicant responded. There is nothing in the record to indicate that the denial decision was returned by the U.S. Postal Service as undeliverable. Therefore, the applicant's failure to receive the notice is of his own making. Furthermore, contrary to counsel's contention, the applicant's employment authorization was issued conditionally on his TPS application being approved. Once the application was denied, the applicant was no longer eligible for TPS.

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.

Beyond the decision of the director, it is noted that the record indicates that the applicant pled guilty to two criminal offenses in the Superior Court of Colorado, City and County of Denver. These convictions must be addressed in any future CIS proceedings.

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.