



U.S. Citizenship
and Immigration
Services

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FILE:



Office: California Service Center

Date: **APR 04 2007**

[WAC 05 228 82805]

IN RE:

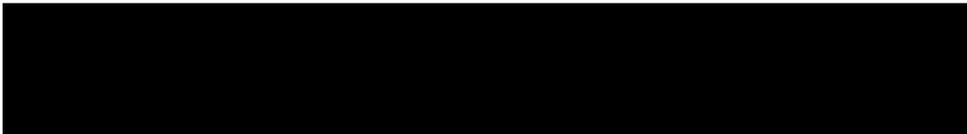
Applicant:



APPLICATION:

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

ON BEHALF OF APPLICANT:



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 on appeal. The appeal will be dismissed.

The applicant is stated to be 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 an initial TPS application on July 31, 2002, under CIS receipt number SRC 02 237 53655. The director denied that application, on August 5, 2003, because the applicant failed to submit a court disposition within 30 days as requested in a March 3, 2003 notice of intent to deny. The director, therefore, considered the TPS application abandoned. 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.

The applicant filed a subsequent Form I-821, Application for Temporary Protected Status, on May 16, 2005, under CIS receipt number WAC 05 228 82805, and indicated that he was re-registering for TPS. The director denied the application on September 22, 2006, because the applicant's initial TPS application had been denied and the applicant was not eligible for re-registration for TPS.

On appeal, counsel states that denial of the TPS re-registration is inappropriate where an applicant for TPS has a pending or approved Form I-821. With the appeal, in an attempt to establish the applicant's eligibility for TPS, counsel submits: a CIS case status computer printout, CIS receipt number SRC 02 237 53655. Counsel does not submit any additional evidence on appeal. However, while counsel asserts that the applicant's initial TPS application is still pending based on information contained in the CIS case status computer printout, the applicant's initial application was denied on August 5, 2003, and the denial notice was sent to the applicant at counsel's current address.

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.

Beyond the decision of the director, it is noted that although the record of proceedings contains an El Salvador birth certificate and English translation, the certificate was not accompanied by a photo identification to establish the applicant's nationality and identity as required by 8 C.F.R. § 244.9(a)(1). In addition, the applicant has not submitted sufficient evidence to establish his continuous residence in the United States from February 13, 2001 and his continuous physical presence since March 1, 2001. Therefore, the application will also be denied for these reasons.

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 applicant's Federal Bureau of Investigation (FBI) fingerprint results report reflects that the applicant was arrested by the Sheriff's Office Fayetteville, Arkansas, and charged with Violation of Omnibus

DWI Act – 1ST OFFE. The AAO notes that the final court dispositions are not in the record of proceeding. CIS must address this arrest in any future proceedings.

It is also noted that the record reveals that the applicant's asylum application was denied and he was granted Voluntary Departure on or before October 22, 1997, with an alternative Order of Deportation to El Salvador, on August 22, 1997, by the Immigration Judge.

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.