



U.S. Citizenship  
and Immigration  
Services

**PUBLIC COPY**

**identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy**



*ML*

FILE:



Office: California Service Center

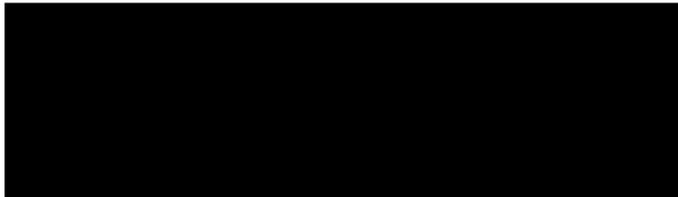
Date:

*APR 30 2007*

[WAC 01 205 52496]

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 office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The applicant's temporary protected status was withdrawn by the Director, California Service Center. The matter is now before the Administrative Appeals Office (AAO) 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 May 15, 2001, under CIS receipt number WAC 01 205 52496. The California Service Center director approved that application on February 16, 2004.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on May 9, 2005 under CIS receipt number EAC 05 221 71949, and indicated that she was re-registering for TPS.

The director simultaneously withdrew the applicant's TPS and denied the re-registration application, on May 26, 2006. The director noted that the applicant failed to submit evidence requested in an August 31, 2005 notice of intent to withdraw, within 30 days, to provide final court disposition for an arrest on February 19, 2004, for Child Cruelty, Possible Injury or Death. The director, therefore, deemed the re-registration application abandoned. 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 director simultaneously withdrew the applicant's temporary protected status concluding that by failing to comply with the notice of intent to withdraw, the applicant had failed to comply with re-registration requirements for TPS. Since there is no appeal available for the re-registration application, the AAO will only consider the appeal of the director's decision to withdraw TPS.

On appeal, the applicant asserts eligibility for TPS as an El Salvadoran who entered the United States before the eligibility period, and who has met the requisite continuous residence and continuous physical presence requirements. The applicant asserts further that the court disposition for the arrest on February 19, 2004, shows that the court amended the charge to a misdemeanor. With the appeal, the applicant submits a court disposition for the arrest on February 19, 2004, discussed above, which indicates that on November 21, 2005, the Superior Court of California amended the child cruelty charge to a misdemeanor.

The director may withdraw the status of an alien granted temporary protected status under section 244 of the Act at any time if it is determined that the alien failed without good cause to register with the Attorney General annually within thirty (30) days before the end of each 12-month period after the granting of TPS. 8 C.F.R. § 244.14.

As noted above, on August 31, 2005, the director notified the applicant of the intent to withdraw her temporary protected status because the record reflected that the applicant had been arrested for Child Cruelty, Possible Injury of Death. The applicant was granted 30 days to submit final court dispositions. As the applicant failed to submit the requested court dispositions, the director deemed the re-registration application abandoned. The director determined the applicant had failed to re-registration for TPS and, therefore, withdrew the applicant's temporary protected status.

One misdemeanor does not render the applicant ineligible for TPS. As noted above, with her appeal, the applicant provided a court disposition for the arrest on February 19, 2004, which indicates that on November 21, 2005, the Superior Court of California amended the child cruelty charge to a misdemeanor.

However, the applicant remains ineligible as she has not submitted sufficient evidence to establish her nationality and identity. The applicant has furnished a copy of a birth certificate and English translation; however, she has not submitted a national identity document from her country bearing a photograph and or/fingerprint. The birth certificate alone is insufficient to establish the applicant's identity and nationality under the provision of 8 C.F.R. § 244.9(a)(1). It is noted that the applicant's Federal Bureau of Investigation (FBI) fingerprint results report reflects that the applicant is a native and citizen of Mexico. Therefore, the application must be denied for these reasons.

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 TPS 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.