

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

U.S. Department of Homeland Security
20 Massachusetts Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

M₁

[REDACTED]

FILE:

[REDACTED]

Office: California Service Center

Date:

DEC 18 2007

[REDACTED]
[WAC 05 210 80441, as it relates to SRC 01 215 55092]
[REDACTED]

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:

[REDACTED]

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.

Robert P. Wiemann, Chief
Administrative Appeals Office

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 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 9, 2001, under CIS receipt number SRC 01 215 55092. The Texas Service Center director denied the application, on April 22, 2003, due to abandonment because the applicant failed to submit information requested in a January 20, 2003, notice of intent to deny for evidence in support of her application. 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 applicant filed a motion to reopen. The director noted in his decision on the motion that the applicant had provided the documentation requested and had overcome the basis for the original denial of her TPS application. The director also noted, however, that the application could not be approved, as the applicant had not been fingerprinted pursuant to Title 8 Code of Federal Regulations, Part 103.2(e)(2).

The applicant filed the current Form I-821, Application for Temporary Protected Status, on April 28, 2005, under CIS receipt number WAC 05 210 80441, and indicated that she was re-registering for TPS.

The Director, California Service Center, denied the re-registration application on March 17, 2006, 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 reasserts that the applicant is eligible for TPS, and states that CIS erred in denying the re-registration application because CIS had granted the applicant's motion to re-open the initial denial.

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, she is not eligible to re-register for TPS. Consequently, the director's decision to deny the application will be affirmed.

Contrary to counsel's assertion, the applicant has not been granted TPS. As noted above, the Texas Service Center director specifically noted that the application could not be approved because the applicant had not been fingerprinted. The AAO notes that the applicant was subsequently fingerprinted; however, the applicant 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). Therefore, the application must also be denied for these reasons.

It is also noted that the record of proceedings reveals that the applicant was apprehended on entry by the United States Border Patrol at or near Hidalgo, Texas, on August 6, 1996. The applicant was placed in removal proceedings (under [REDACTED] and on October 29, 1997, an Immigration Judge granted the

applicant voluntary departure in lieu of Removal on/or before January 29, 1998, with an alternate Order of Removal, if the applicant failed to depart the United States as required. There is no evidence in the record that the applicant departed the United States by the specified date.

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.