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U.S. Citizenship
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Services

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FILE:



Office: CALIFORNIA SERVICE CENTER

Date:

[WAC 05 210 82790]

IN RE:

Applicant:



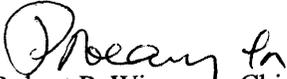
APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

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 (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 a TPS application during the initial registration period under Citizenship and Immigration Service (CIS) receipt number SRC 01 217 56537. The Texas Service Center (TSC) director denied that application on April 6, 2004, due to abandonment because the applicant failed to respond to two requests for the final court dispositions regarding his past criminal history. After a review of the record, the Chief, AAO, concurs with the director's denial decision.

The applicant filed the instant Form I-821, Application for Temporary Protected Status, on April 28, 2005. The director denied this application on February 21, 2005, because the applicant's initial application was denied.

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.

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.

There is no indication that the applicant was attempting to file a late initial application for TPS instead of an annual re-registration. Moreover, there is no evidence in the file to suggest that the applicant is eligible for late registration for TPS under 8 C.F.R. § 244.2(f)(2).

Beyond the decision of the director, it also is noted that the applicant has provided insufficient evidence to establish his qualifying continuous physical presence and continuous residence during the requisite time periods. 8 C.F.R. § 244.2(b) and (c). Therefore, the application will also be denied for these reasons.

In addition, a review of the record of proceedings reveals that the Federal Bureau of Investigation (FBI) fingerprint results report reflects the following:

- 1) On September 8, 2000, the applicant was arrested by the Tampa Police Department and charged with "Prostitution"; and,
- 2) On July 29, 2001, the applicant was arrested by the Hillsborough County Sheriff's Office and charged with "Traffic Offense – DUI".

The record contains a copy of the final court disposition for the arrest as detailed in No. 1 above reflecting that the applicant plead guilty to "Soliciting Another to Commit", a misdemeanor. However, the record is

absent the final court disposition for the arrest as detailed in No. 2 above. In any future proceedings before the CIS, the applicant must submit evidence of the final court disposition of this and any other charge(s) against him.

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.