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U.S. Department of Homeland Security
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U.S. Citizenship
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Services

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FILE: [REDACTED]
[WAC 05 224 87834]

OFFICE: California Service Center

DATE:

FEB 05 2007

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 application was denied by the Director, California Service Center, and is now on appeal before the Administrative Appeals Office (AAO). The appeal will be dismissed.

The applicant claims 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 Form I-821, Application for Temporary Protected Status, in September 2002. The application was denied by the director on the ground of abandonment in May 2004 after the applicant failed to comply with a notice issued by the service center in October 2003 to appear for fingerprinting at the USCIS office in El Monte, California, on November 25, 2003. Upon review of the record, the Chief, AAO, concurs with the director's denial decision.

The AAO notes that the initial Form I-821 was filed on September 17, 2002. That was eight days after the expiration of the 18-month registration period for original TPS applicants, which ran from March 9, 2002 until September 9, 2002. There is no evidence in the file to suggest that the applicant was eligible for late registration for TPS, in accordance with 8 C.F.R. § 244.2(f)(2), upon the expiration of the initial registration period in September 2002. It would appear, therefore, that the initial application was also deniable on the ground of late filing.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on March 10, 2005, and indicated that he was re-registering for TPS.

The director denied the re-registration application on June 27, 2005, 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. *See* 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 is 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, the AAO notes that an FBI report in the record lists three arrests of the applicant, which are described as follows:

1. June 8, 2000, by the U.S. Border Patrol at El Centro, California. Two charges were filed, including (1) a removal proceeding under 8 U.S.C. § 1229(A), and (2) illegal entry into the United States under 8 U.S.C. § 1325.

2. February 20, 2004, by the Sheriff's Office in Oakland, California, on a charge of driving under the influence of alcohol/drugs.
3. November 18, 2005, by the Sheriff's Office in Oakland, California, on a charge of driving without a license.

There are no final court dispositions in the record showing how these arrests were resolved. The AAO notes that an alien is not eligible for Temporary Protected Status under this section if the Secretary of the Department of Homeland Security finds that the alien has been convicted of any felony or two or more misdemeanors committed in the United States. See Section 244(c)(2)(B)(i) of the Act and 8 C.F.R. § 244.4(a).

An alien applying for Temporary Protected Status, or 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.