



U.S. Citizenship
and Immigration
Services

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

PUBLIC COPY



M

FEB 27 2007

FILE:



Office: CALIFORNIA SERVICE CENTER

Date:

[WAC 05 148 74981]

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.

A handwritten signature in cursive script, appearing to read "R. Wiemann".

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 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 a TPS application during the initial registration period under Citizenship and Immigration Services (CIS) receipt number SRC 01 252 55130. The director denied that application on September 29, 2004, because the applicant arrived in the United States subsequent to the eligibility period and could not meet the continuous residence and continuous physical presence criteria described in 8 C.F.R. § 244.2(b) and (c). After a review of the record, the Chief, AAO, concurs with the director's denial decision.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on February 25, 2002, and indicated that she was re-registering for TPS.

The director denied the re-registration application on June 29, 2005, because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS. On September 27, 2005, the applicant filed an appeal from the denial decision. The appeal was rejected by the director because it was filed untimely. The applicant filed the current appeal from the decision to reject the appeal on November 23, 2005.

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.

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).

It is noted that the applicant was apprehended by the U.S. Border Patrol on May 21, 2001, and placed under removal proceedings. On January 2, 2002, she was granted voluntary departure by an Immigration Judge in Dallas, Texas. A Warrant of Removal/Deportation for the applicant was issued by the Interim Field Office Director of U.S. Immigration and Customs Enforcement on September 4, 2002, after the applicant failed to depart the U.S. voluntarily.

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.