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**U.S. Citizenship  
and Immigration  
Services**

M1

FILE:

[REDACTED]

Office: California Service Center

Date: **JAN 16 2007**

[WAC 05 209 70762]

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 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 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 March 25, 2002, under CIS receipt number SRC 02 133 54717. The director denied that application on September 19, 2002, because the applicant failed to respond to a June 13, 2002 request to report for fingerprinting. The director, therefore, considered that application abandoned and denied the application. 8 C.F.R. § 103.2(b)(13). 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 record reflects that the applicant filed a motion to reopen or reconsider on September 23, 2003. The director denied the motion on July 15, 2004.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on April 26, 2005, under CIS receipt number WAC 05 209 70762, and indicated that he was re-registering for TPS. The director denied the re-registration application, on March 6, 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 asserts that the applicant is eligible for TPS. Counsel points out that the applicant's conviction on December 5, 1996 for Driving While Intoxicated (DWI) constitutes a single misdemeanor conviction, and therefore, the applicant is eligible for TPS. With the appeal, in an attempt to establish the applicant's eligibility to TPS, counsel submits a brief in support of the appeal, and a summary from Publicdata.com of the Texas Department of Public Safety Detail of court disposition for the DWI arrest and conviction. However, 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.

It is noted that the applicant's Federal Bureau of Investigation (FBI) results report, completed in connection with his subsequent TPS re-registration application, reflects that the applicant was arrested on July 13, 1996, by the Police Department Houston, and charged with one count of DWI. As noted above, counsel submitted summary information obtained from Publicdata.com as evidence of the court disposition. However, the final court disposition is not in the record of proceeding. CIS must address this arrest in any future proceedings.

The application will be denied for the above stated reason. 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.