



U.S. Citizenship
and Immigration
Services

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ML

[REDACTED]

FILE: [REDACTED]
[WAC 05 225 71964]

Office: CALIFORNIA SERVICE CENTER

Date: JAN 19 2007

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
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 EAC 02 002 54821. The applicant's Federal Bureau of Investigation (FBI) fingerprint results report revealed the following offenses:

1. On October 15, 2000, the applicant was arrested in Wenatchee, Washington, under the name [REDACTED] and charged with driving under the influence of alcohol in violation of section 46.61.502, a gross misdemeanor. Although the applicant has not provided the final court disposition of this arrest, the fingerprint results report indicates that the applicant was convicted of this charge.
2. On May 21, 2003, the applicant was arrested in Mineola, New York, and charged with assault with intent to cause physical injury in violation of PL 120.00, a Class A misdemeanor.
3. On May 28, 2003, the applicant was arrested in Mineola, New York, and charged with criminal contempt, 1st weapon in violation of PL 215.51, a Class E felony, and criminal contempt, 2nd, disobeying a court order in violation of section 215.50, a Class A misdemeanor. Although the applicant has not provided the final court disposition of this arrest, the fingerprint results report indicates that the applicant was convicted on the charge of criminal contempt in violation of section 215.50 PL, a Class A misdemeanor.

On June 25, 2004, the applicant was requested to provide the final court dispositions of the arrests detailed above. The record does not contain a response from the applicant. The director denied the application on November 23, 2004, because she found that the applicant had failed to submit requested court documentation relating to his criminal record. 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 May 13, 2005, and indicated that he was re-registering for TPS.

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, the applicant has failed to provide court documents reflecting the final court dispositions of his arrests detailed above. The applicant is ineligible for Temporary Protected Status because of his failure to provide information necessary for the adjudication of his application. 8 C.F.R. § 244.9(a). Therefore, the application also must be denied for this reason.

It is noted that the applicant was apprehended by the United States Border Patrol on February 16, 1996, near the Tecate, California, Port of Entry after having entered the United States without inspection. The applicant was released on bond and placed in removal proceedings. On December 2, 1996, an Immigration Judge in Seattle, Washington, denied the applicant's applications for asylum and for withholding of removal and granted the applicant the privilege of voluntary departure from the United States to El Salvador on or before August 2, 1997, with an alternate order of removal if the applicant failed to comply with the grant of voluntary departure. The applicant did not depart the United States as ordered, and the record contains an outstanding warrant of removal issued by the District Director, Seattle, Washington, on November 5, 1997.

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.