



U.S. Citizenship
and Immigration
Services

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

PUBLIC COPY

M1

[Redacted]

JAN 25 2007

FILE: [Redacted]
[WAC 05 187 71864]

Office: CALIFORNIA SERVICE CENTER

Date:

IN RE: Applicant:

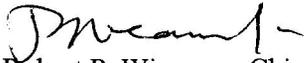
[Redacted]

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

ON BEHALF OF APPLICANT: 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 before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is 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 with the Immigration and Naturalization Service, now Citizenship and Immigration Services (CIS), on September 11, 2002, under receipt number WAC 03 033 53254. On January 23, 2004, the applicant was requested to provide additional evidence to establish continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States since March 9, 2001. The record does not contain a response from the applicant. The director denied the application on April 2, 2004, after determining that the applicant had abandoned his application by failing to respond to the request for additional evidence. The director erroneously informed the applicant that he could file an appeal from the denial decision with the AAO. On April 28, 2004, the applicant filed an appeal from the denial decision with the AAO. On August 12, 2005, the Director (now Chief) of the AAO remanded the case to the service center director for consideration of the appeal as a motion to reopen, because the AAO has no jurisdiction over a denial due to abandonment. On October 29, 2005, the service center director reopened the case and denied the application again because the applicant failed to establish his eligibility for late initial registration and his qualifying continuous residence and continuous physical presence in the United States during the requisite periods. 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 April 5, 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).

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.



Page 3

ORDER: The appeal is dismissed.