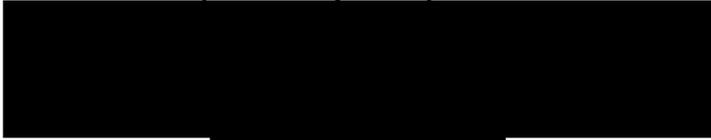




U.S. Citizenship
and Immigration
Services

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FILE:



Office: CALIFORNIA SERVICE CENTER

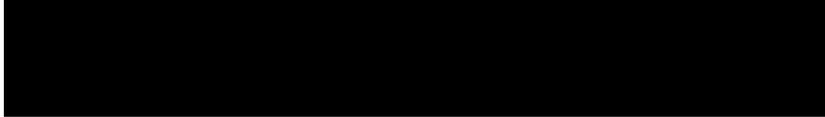
Date:

[WAC 05 211 72793]

JAN 26 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:



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 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 WAC 01 224 54863. On November 23, 2003, the applicant was requested to provide evidence to establish her identity and nationality and her qualifying continuous residence and continuous physical presence in the United States during the requisite periods. The notice was mailed to the applicant at her most current address, [REDACTED] but was returned to the California Service Center as undeliverable mail. The director denied that application on April 2, 2004, after determining that the applicant had abandoned her application by failing to respond to the request for additional evidence. 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 29, 2005, and indicated that she 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, she is not eligible to re-register for TPS. Consequently, the director's decision to deny the application will be affirmed.

On appeal, counsel for the applicant asserts that the applicant is prima facie eligible for TPS. Counsel further asserts that the applicant never received the request for additional evidence, and that she "has promptly responded to all previous requests from the U.S.C.I.S."

The request for additional evidence was mailed to the address listed by the applicant on her Form I-765, Application for Employment Authorization, filed with the California Service Center on August 29, 2003. (CIS receipt number WAC 03 247 51362 relates). There is no indication in the record of proceeding or CIS computer records that the applicant reported another address change prior to the filing of the current re-registration application on April 29, 2005. Therefore, counsel's assertion that the applicant did not receive proper notice that additional evidence was required to establish her eligibility for TPS cannot be accepted.

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, it is noted that the applicant was apprehended by the United States Border Patrol on October 3, 1999, near Eagle Pass, Texas, after having entered the United States without inspection. The applicant was placed in removal proceedings and released on her own recognizance. On August 9, 2000, an Immigration Judge in San Antonio, Texas, ordered the applicant removed from the United States to El Salvador in absentia. The record contains an outstanding warrant of removal issued by the District Director, San Antonio, Texas, on August 23, 2000.

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.