

Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy



U.S. Citizenship
and Immigration
Services

PUBLIC COPY



Handwritten initials

JAN 29 2007

FILE: [REDACTED]
[WAC 05 221 71051]

Office: CALIFORNIA SERVICE CENTER

Date:

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 black ink, appearing to read "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 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 Citizenship and Immigration Services (CIS) on November 25, 2002, under receipt number WAC 03 058 54117. The applicant's Federal Bureau of Investigation (FBI) fingerprint results report revealed that the applicant was arrested in Santa Ana, California, on December 1, 2002, and charged with one count of making a deceptive government identification document. On November 25, 2003, the applicant was requested to provide the final court disposition of his arrest. He was also requested to submit additional evidence to establish his identity and nationality and his qualifying continuous residence and continuous physical presence in the United States during the requisite periods. The record does not contain a response from the applicant. The director denied the application on March 8, 2004, after determining that the applicant had abandoned his application by failing to respond to the request for additional evidence. The director informed the applicant that there is no appeal from a denial due to abandonment, but he could file a motion to reopen his case within 30 days of the issuance of the denial decision. The applicant failed to file a motion to reopen his case within the requisite period. 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 9, 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).

It is noted that the applicant was expeditiously removed from the United States on January 23, 2006, after having entered the United States without inspection near Temecula, California. Since the applicant departed the United States under an order of removal, he cannot establish continuous residence in the United States since February 13, 2001, and continuous physical presence in the United States since March 9, 2001. 8 C.F.R. § 244.1(3). Therefore, the application also must be denied for these reasons.

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.