



U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
[WAC 05 223 79801]

OFFICE: CALIFORNIA SERVICE CENTER

DATE: JUL 02 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: 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 on appeal. The appeal will be dismissed.

The applicant is a native and 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.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an alien who is a national of a foreign state designated by the Attorney General is eligible for temporary protected status only if such alien establishes that he or she:

- (a) Is a national, as defined in section 101(a)(21) of the Act, of a foreign state designated under section 244(b) of the Act;
- (b) Has been continuously physically present in the United States since the effective date of the most recent designation of that foreign state;
- (c) Has continuously resided in the United States since such date as the Attorney General may designate;
- (d) Is admissible as an immigrant except as provided under § 244.3;
- (e) Is not ineligible under 8 C.F.R. § 244.4; and
- (f)
 - (1) Registers for TPS during the initial registration period announced by public notice in the *Federal Register*, or
 - (2) During any subsequent extension of such designation if at the time of the initial registration period:
 - (i) The applicant is a nonimmigrant or has been granted voluntary departure status or any relief from removal;
 - (ii) The applicant has an application for change of status, adjustment of status, asylum, voluntary departure, or any relief from removal which is pending or subject to further review or appeal;
 - (iii) The applicant is a parolee or has a pending request for reparole; or
 - (iv) The applicant is a spouse or child of an alien currently eligible to be a TPS registrant.

The record reveals that the applicant filed a TPS application during the initial registration period on May 9, 2001, under receipt number WAC 01 194 52174. The director denied that application on June 23, 2004, after determining that the applicant had abandoned her application based on her failure to appear for fingerprinting on February 7, 2004. The applicant did not file a motion to reopen within 30 days from the date of the denial.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on May 11, 2005, and indicated that she was re-registering for TPS.

The director denied the re-registration application on August 16, 2005, 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, the applicant asserts that she has evidence to prove that she has been residing in the United States since prior to February 2001. She submits additional evidence in an attempt to establish continuous residence and continuous physical presence in the United States during the requisite period.

The applicant is filing the current TPS application as a re-registration; therefore, 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.

The record indicates that the applicant subsequently appeared for fingerprinting on April 30, 2006. The Federal Bureau of Investigation (FBI) fingerprint results report indicates that the applicant was arrested on March 1, 2006, in Santa Ana, California, for Count 1, burglary; Count 2, burglary, second degree; Count 3, embezzlement over \$400; and Count 4, grand theft by servant. The final court disposition of this arrest is not included in the record of proceeding. CIS must address this arrest and/or conviction in any future decisions or proceedings.

Additionally, pursuant to section 212(a)(2)(A)(i)(I) of the Act, an alien is inadmissible if she has been convicted of a crime involving moral turpitude (other than a purely political offense), or if she admits having committed such crime, or if he admits committing an act which constitutes the essential elements of such crime. Grand theft, burglary, and embezzlement are found to be crimes involving moral turpitude, and convictions of these offenses may render the applicant inadmissible to the United States pursuant to section 212(a)(2)(A)(i)(I) of the Act.

It is also noted that the FBI report indicates that the applicant was born in Estonia, and that she is a citizen of Estonia. The applicant is required to meet the eligibility requirements that she is a national of a designated foreign state pursuant to section 244(c) of the Act. The country of Estonia is not a foreign state designated under section 244 of the Act.

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.