



U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER
[WAC 05 207 87762 as it pertains to
[SRC 01 211 57235]

Date: JUL 23 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 California Service Center. 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 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 SRC 01 211 57235. The District Director, Charlotte, North Carolina, denied that application for abandonment on October 4, 2005, because the applicant failed to appear for a removal hearing. The record does not reflect that the applicant filed a motion to reopen the director's decision.

The applicant filed the current Form I-821, Application for Temporary Protected Status, on April 25, 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.

On appeal, the applicant states that he has continuously resided in the United States since February 13, 2001 and has never left the United States. The applicant also submits evidence in an attempt to establish his qualifying continuous residence and continuous physical presence in the United States.

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.

It is noted that the director's decision does not explore the possibility that the applicant was attempting to file a late initial application for TPS instead of an annual re-registration.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an applicant may apply for TPS during the initial registration period, or:

- (f) (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.

- (g) Has filed an application for late registration with the appropriate Service director within a 60-day period immediately following the expiration or termination of conditions described in paragraph (f)(2) of this section.

The initial registration period for El Salvadorans was from March 9, 2001 through September 9, 2002. The record reveals that the applicant filed the current application with Citizenship and Immigration Services (CIS) on April 25, 2005.

To qualify for late registration, the applicant must provide evidence that during the initial registration period he fell within at least one of the provisions described in 8 C.F.R. § 244.2(f)(2) above.

The burden of proof is upon the applicant to establish that he or she meets the above requirements. Applicants shall submit all documentation as required in the instructions or requested by CIS. 8 C.F.R. § 244.9(a). The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. To meet his or her burden of proof, the applicant must provide supporting documentary evidence of eligibility apart from his or her own statements. 8 C.F.R. § 244.9(b).

On appeal, the applicant states that he is a national of El Salvador, has continuously resided in the United States since February 3, 2001, and has never left the United States. According to the applicant, he filed his initial TPS application on time. The applicant also submits evidence in an attempt to establish his qualifying continuous residence and continuous physical presence in the United States. However, this does not mitigate the applicant's failure to file his TPS application within the initial registration period. The record shows that the applicant did submit a TPS application during the initial registration period. However, as discussed above, that application was denied by the District Director, Charlotte, North Carolina, on October 4, 2005.

The applicant has failed to provide any evidence to establish that this application should be accepted as a late initial registration under 8 C.F.R. § 244.2(f)(2). Therefore, the application also must be denied for this reason.

Beyond the decision of the director, it is noted that a Federal Bureau of Investigation (FBI) fingerprint results report shows the following:

1. On March 8, 2002, the applicant was charged at the CIS Charlotte, North Carolina, district office with "USC 1001 False Statements, 42 USC Social Security Fraud."

2. On August 5, 2002, the applicant was arrested by the Mecklenburg Police Department for “Driving While Impaired”, “Driving While License Revoked.” The final court disposition for this arrest is not included in the record.

It is also noted that the applicant has failed to declare on his applications that he has ever been arrested. CIS must address this arrest in any future proceedings.

The record of proceeding reflects that on June 19, 2002, an immigration judge ordered the applicant removed from the United States to El Salvador. A Warrant of Removal/Deportation, Form I-205, was issued on June 19, 2002. The record indicates that the applicant was deported to El Salvador on May 17, 2006.

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.