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U.S. Department of Homeland Security  
20 Mass. Ave., N.W., Rm. 3000  
Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

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[Redacted]

JUL 24 2007

FILE:

[Redacted]

Office: CALIFORNIA SERVICE CENTER

Date:

[Redacted] consolidated]

[WAC 05 270 71305]

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:

[Redacted]

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 (AAO) 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.

The applicant filed an initial Form I-821, Application for Temporary Protected Status, under receipt number SRC 03 259 53816 after the initial registration period had closed. The Director, Texas Service Center, denied that application on March 29, 2004, after determining that the applicant had abandoned his application by failing to respond to a request for evidence. The applicant filed a subsequent application under receipt number WAC 05 228 82298. The Director, California Service Center (CSC), considered that Form I-821 as a re-registration application and denied it on December 21, 2005, because the applicant's initial TPS application had been denied and the applicant was not eligible to apply for re-registration for TPS. An untimely appeal was rejected by the Director, CSC, on March 3, 2006. The applicant filed another Form I-821 under receipt number WAC 05 270 71305 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 an alien is filing a re-registration application, 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.

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 Salvador was from March 9, 2001 through September 9, 2002. The record reveals that the applicant filed his initial application on September 16, 2003, and the current application with CIS on June 27, 2005.

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

Counsel provides the file number for a person the applicant claims is his father and indicates that this person is a TPS registrant. However, review of the indicated file reflects that although his purported father claimed a child with the applicant's name, that person was born on a different date and was residing in El Salvador on March 1, 2001. Furthermore, as the applicant was over 21 years of age when he applied on September 16, 2003, he was too old to qualify as a child. 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.

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 cited 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.