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U.S. Citizenship
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FILE: [REDACTED] OFFICE: California Service Center DATE: JUL 27 2007
[WAC 05 141 73617]

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 office that originally decided your case. Any further inquiry must be made to that office.

A handwritten signature in black ink, appearing to read "R. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, California Service Center (CSC). It is now on appeal before the Administrative Appeals Office (AAO). 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 shows that the applicant filed an initial Form I-821, Application for Temporary Protected Status, with the Texas Service Center (TSC) on May 4, 2001 [SCR 01 202 56639]. The TSC Director issued a notice of intent to deny (NOID) on July 15, 2004, advising the applicant that an FBI (Federal Bureau of Investigation) background check based on his fingerprints indicated that he had been arrested twice on vehicular-related charges – (1) on March 13, 1999, in Austin, Texas, and (2) on April 15, 1999, in Garland, Texas. The applicant was requested to submit within 30 days the final court dispositions of these and any other arrests in the United States.

On September 7, 2004, the TPS application was denied by the TSC Director on the ground that the applicant had not provided the requested documentary evidence to establish his eligibility for TPS, in accordance with the NOID and 8 C.F.R. § 244.9(b), and was therefore deemed under 8 C.F.R. § 244.9(c) to have abandoned his application.¹

The applicant filed the current Form I-821 with the CSC on February 18, 2005, and indicated that he was re-registering for TPS.

The CSC Director denied the re-registration application on September 11, 2006, on the ground that the applicant's initial TPS application had been denied, thereby making him ineligible to re-register 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. *See* 8 C.F.R. § 244.17.

In this case, the applicant has not previously been granted TPS.² Therefore, he is not eligible to re-register for TPS. Accordingly, the director's decision to deny the application will be affirmed.

¹ Counsel subsequently submitted (in the appeal of the current re-registration application) two letters from the County and District Criminal Courts of Dallas County, Texas, indicating that a search of court records did not reveal that the applicant had been convicted of any misdemeanor or felony in those courts. The AAO notes, however, that the applicant's two arrests listed in the FBI report occurred in Austin, Texas, and in Garland, Texas. No court records have been submitted from those jurisdictions.

² On appeal counsel refers to the U.S. Citizenship and Immigration Services (CIS) website and claims that it shows the applicant's re-registration application was approved on October 2, 2006. Counsel has misinterpreted the pertinent language on the website, which reads as follows: "On October 2, 2006, the document we made based on the *approval or registration* of this case was mailed directly to the person to whom issued." [Emphasis added.] CIS records show that the document sent to the applicant on October 2, 2006, was not an approval, but rather the Notice of Decision, dated September 11, 2006, denying the re-registration application.

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.